

NC COASTAL RESOURCES COMMISSION (CRC)

October 22-23, 2014

Hilton Wilmington Riverside
Wilmington, NC

Present CRC Members

Frank Gorham, Chair

Renee Cahoon, Vice-Chair

Neal Andrew

Larry Baldwin

Suzanne Dorsey

Marc Hairston

Greg Lewis

Jamin Simmons

Harry Simmons

John Snipes (absent 10/23)

Bill White

Present CRAC Members

Debbie Wilson, Chair

Spencer Rogers, Vice-Chair

Rudi Rudolph, Vice-Chair

Jett Ferebee

Bill Morrison

Kris Noble

Bobby Outten

Dave Weaver

Present Attorney General's Office Members

Christine Goebel

Jill Weese

Mary Lucasse

CALL TO ORDER/ROLL CALL

Frank Gorham called the meeting to order reminding the Commissioners of the need to state any conflicts due to Executive Order Number One and also the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or a potential conflict of interest, please state so when the roll is called.

Angela Willis called the roll. All duly appointed Commissioners were present. The Chairman stated he had no conflicts, but knows several of the attorneys and consultants who will appear before the CRC at this meeting on a personal or professional basis including some that have worked with him in his capacity as Figure Eight HOA President. Chairman Gorham further stated he is on the Energy Policy Council that makes recommendations to the Governor and the Legislature on energy matters and is in the oil and gas industry, but not involved in anything in North Carolina. Neal Andrew stated he has no conflict, but would like to disclose that he knows members on both sides of the Town of Carolina Beach variance request both personally and professionally. Renee Cahoon stated

she has a conflict with the Toloczko variance request and will recuse herself on that matter. Based upon this roll call Chairman Gorham declared a quorum.

Commissioner William White read the evaluation of his statement of economic interest received from the State Ethics Commission which indicated that they did not find an actual conflict of interest, but only the potential for conflict; however, the potential conflict identified does not prohibit his service. Commissioner White also reported that he will be sensitive to any potential conflicts of interest that could arise from the fact that his son lives in Manteo in Pirates Cove and is the owner of an offshore charter boat operating out of the Oregon Inlet Fishing Center.

CHAIRMAN'S COMMENTS

Chairman Gorham welcomed Commissioner Bill White to the CRC. Commissioner White stated he was born in Bertie County and has worked with Weyerhaeuser in forestry management procurement. He has been retired for 11 years and has recently gone into the real estate business.

VARIANCE REQUESTS

Palm Cove LLC (CRC VR 14-19) Sunset Beach, Pier in Inlet Hazard AEC

Holley Snider, Christine Goebel

Holley Snider, DCM field representative, gave the Commission an overview of the property. Christine Goebel of the Attorney General's Office represented staff. Attorney Clark Wright was present and represented Petitioners.

Ms. Goebel reviewed the stipulated facts stating Petitioners have interest in a ten lot subdivision at the eastern end of Sunset Beach which have frontage on both the Atlantic Ocean and Jinks Creek. The owners of lots 2-10 sought a CAMA permit in order to build a 9-slip community docking facility at lots 2 and 3 on Junks Creek to be shared by the owners of lots 2-10. On May 27, 2014, DCM denied Petitioners' application based on the proposal's inconsistency with the Commission's rules prohibiting docks and piers in an inlet hazard AEC (15A NCAC 7H .0309 and 7H .0310) and because the proposed facility did not meet the Commission's exception to its general rule which allows piers and docks in an inlet hazard AEC only if they are small scale and if the location includes features characteristics of estuarine shorelines per 7H .0310(c). Petitioners seek a variance to allow the proposed 9-slip community docking facility as proposed in their application. Ms. Goebel stated that staff and Petitioners do not agree on any of the four statutory criteria which must be met in order to grant the variance request. First, strict application of the development rules will not cause petitioners unnecessary hardship. This property is entirely within the inlet hazard area. These areas are especially vulnerable to erosion, flooding and other adverse effects of sand, wind and water because of their proximity to the inlet. The Commission's rules allow for an exception when the proposed development is small scale and exhibits estuarine shoreline characteristics. Neither of these factors are present in this case. Second, staff argues that hardships are not a result of conditions peculiar to the property. Lot 1 is a transitional area between the estuarine shoreline characteristics and the ocean shoreline characteristics. Before the permit for lot 1 was granted in 2005, staff visited the site and found estuarine characteristics. Site visits were made for the current permit decision and there were no estuarine shoreline characteristics on lots 2 and 3. Third, staff argues that Petitioners have caused their own hardship as they should not have had a reasonable expectation that a pier permit would be issued for lots 2-10 given that their location is adjacent to an ocean inlet within the designated inlet hazard AEC and ocean erodible AEC. DCM staff makes each determination regarding shoreline characteristics based on conditions during site visits and does not draw the lines based on platted lots and where a subdivision begins or ends. Final Staff argues that granting this variance would not be within the spirit, purpose or intent of the CRC's

rules, would not secure public safety and would not preserve substantial justice. The limitations placed on the CRC's exception for development within the Inlet Hazard AEC are reasonable and a nine-slip pier would not be within the spirit, purpose or intent of the CRC's rules. Stipulated Facts 17-19 point to the fact that this shoreline does not have estuarine shoreline characteristics.

Clark Wright of Davis, Hartman, Wright represented Petitioners and stated in the relevant rules and statutes that the Commission is given, staff does not include Section 128 of CAMA which states that nothing in this Article authorizes any governmental agency to adopt a rule or issue any order that constitutes a taking of property in violation of the Constitution of this State or of the United States. We are here about an effort by my clients to avoid this CRC and the agency carrying out a taking. The fundamental issue is riparian rights. A fundamental element of riparian rights as opposed to littoral rights is the right to pier out to have access to deep water. Staff objects to the variance based on the fact that we don't comply with the current use standards. Of course we don't and that is what a variance is. Ms. Goebel stated that this is a transition area. Lot 1 was found to be appropriate for a dock. Petitioners have gathered the owners of these lots and committed them to file a restrictive covenant that will permanently prohibit any further piers, docks or development in exchange for putting one small 9-slip HOA facility. DCM did not deny the permit based on any of the comments that came in. We will make sure that the Shellfish Sanitation requirements are met. We have minimized all impacts that relate to the purposes of the rules and we have preserved riparian rights in the most minimal way with an absolute prohibition on any further development.

Renee Cahoon made a motion that strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner an unnecessary hardship. As part of the motion, Commissioner Cahoon required that if a variance is granted it include the condition that a covenant prohibiting construction of future piers and docks on any of the lots 2-10 be included in the Final Order. Jamin Simmons seconded the motion. The motion passed with seven votes in favor (Andrew, Hairston, J. Simmons, Baldwin, Cahoon, Gorham) and three opposed (Lewis, Snipes, Dorsey)(White abstained).

Renee Cahoon made a motion that the hardship result from conditions peculiar to the petitioner's property. Larry Baldwin seconded the motion. The motion passed with seven votes in favor (Andrew, Hairston, J. Simmons, Baldwin, Cahoon, Gorham) and three opposed (Lewis, Snipes, Dorsey)(White abstained).

Renee Cahoon made a motion that hardships do not result from actions taken by the petitioner. Larry Baldwin seconded the motion. The motion passed with seven votes in favor (Andrew, Hairston, J. Simmons, Baldwin, Cahoon, Gorham) and three opposed (Lewis, Snipes, Dorsey)(White abstained).

Renee Cahoon made a motion that the variance granted subject to the condition that not future piers and docks be permitted on lots 2-10 will be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; secure the public safety and welfare; and preserve substantial justice. Harry Simmons seconded the motion. The motion passed with seven votes in favor (Andrew, Hairston, J. Simmons, Baldwin, Cahoon, Gorham) and three opposed (Lewis, Snipes, Dorsey)(White abstained).

This variance request was granted with conditions.

Town of Carolina Beach (CRC VR 14-10), Oceanfront setback

Robb Mairs, Jill Weese

Robb Mairs, DCM Field Representative, gave the Commission an overview of the property. Jill Weese of the Attorney General's Office represented DCM Staff. Attorney Noel Fox was present and represented the Town of Carolina Beach.

Ms. Weese reviewed the stipulated facts of this variance project stating Petitioners came before the CRC earlier this year regarding the replacement and extension of the boardwalk. At the February meeting the CRC granted the replacement of the existing boardwalk, but denied the section of the variance petition requesting a northern extension to the boardwalk. In May the Town submitted a revised permit application to construct a northern extension. On May 6, DCM denied the permit application because the proposed development extended oceanward of the ocean hazard setback distance and did not meet any of the applicable exceptions listed in 15A NCAC 7H .0309(a). Petitioners now seek a variance to construct a northern extension of the boardwalk 16 feet wide. However, petitioner has stated it is willing to limit the width to eight feet if required by the Commission. Petitioners have contacted the five adjacent property owners or their representative Boards. The Town officials have met with the Cabana HOA to continue discussion of issues and concerns. The Town also met with Mr. Avarette and his daughters regarding their concerns. Staff has some concerns about the extent of the public opposition to the project, however to the extent that the comments express concerns about the location of the northern extension Staff believe all of these concerns were considered and addressed prior to its decision to support the variance. Staff's position focuses solely on whether the proposed development activity is consistent with the spirit, purpose and intent of the rules. Staff and Petitioners agree on all four statutory criteria which must be met in order to grant the variance request.

Noel Fox, Town Attorney for Carolina Beach, stated she is joined by the Mayor and members of Council, the project manager and Assistant Town Manager. The Petitioner has no disagreement with what Staff has recommended in this variance request. **Renee Cahoon made a motion 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 failed with four votes in favor (Andrew, Hairston, H. Simmons, Cahoon) and six opposed (J. Simmons, Baldwin, Gorham, Lewis, Snipes, Dorsey).**

Greg Lewis made a motion that hardships result from conditions peculiar to Petitioner's property. Neal Andrew seconded the motion. The motion failed with four votes in favor (Andrew, Hairston, H. Simmons, Cahoon) and six opposed (J. Simmons, Baldwin, Gorham, Lewis, Snipes, Dorsey).

Greg Lewis made a motion that hardships do not result from actions taken by the Petitioner. Neal Andrew seconded the motion. The motion failed with four votes in favor (Andrew, Hairston, H. Simmons, Cahoon) and six opposed (J. Simmons, Baldwin, Gorham, Lewis, Snipes, Dorsey).

Following discussion with the Commission, the Town of Carolina Beach withdrew its request for a variance.

Topsail Reef HOA (CRC VR 14-11), North Topsail Beach, Sandbags

Tara McPherson, Christine Goebel

Tara McPherson gave an overview of the property. Christine Goebel of the Attorney General's office represented Staff. Attorney Clark Wright was present and represented Petitioners in this variance request.

Ms. Goebel reviewed the stipulated facts stating Petitioners in this case are Topsail Reef Homeowners Association. This is an eight-building condominium complex located on the oceanfront at the north end of North Topsail Beach and just outside of the Inlet Hazard Area AEC. Petitioners installed sandbags in 2012 and received a variance from the CRC to install a larger structure than allowed by rule in front of buildings 1-5. Petitioner installed sandbags in a 6 feet by 20 feet structure in front of Buildings 6-8. Petitioner sought a major modification to Major Permit No. 39-01 in order to increase the size of the sandbag structure in front of Buildings 6-8. Petitioner's request was denied as it did not meet the Commission's sandbag size limits. Petitioners now seek a variance to allow the placement of sandbags in the configuration proposed in their modification request. Ms. Goebel informed the Commission that staff and petitioners agree on three of the four variance criteria. The one area of disagreement is Staff's position that any hardships do not result from conditions peculiar to the petitioner's property. Specifically, the CRC's rules reflect that inlets are especially volatile and known to move regularly. Erosion at this site is typical of that at inlets and the adjacent oceanfront shoreline. Therefore, any hardship are not the result of conditions peculiar to the site. Ms. Goebel informed the Commission that between the 2012 variance and this request, the CRC rules were amended to allow sandbag structures to remain for up to eight years. Therefore, if the request is granted Staff agrees that the time should be measured eight years from the time the original permit was issued in 2012 and not from the date of this variance request.

Clark Wright agreed that the hardships are the result of peculiar site conditions. The erosion rate at this site is averaging 8-12 feet per month. This started in May 2013 when the Town's inlet relocation project was complete. The erosion directly correlates to the inlet relocation project. Mr. Wright reviewed the stipulated facts which Petitioners contend supports the granting of the variance request. Petitioners are comfortable with a condition being put in the variance order that states the property owner must come up with the funding to implement this within a set timeframe.

The Commission discussed the need to include as a condition on any variance granted that the HOA provide document within nine months that the HOA had approved funding the proposed sandbag project or the variance will expire.

Larry Baldwin made a motion that strict application of the applicable development rules, standards or orders issued by the Commission cause the petitioner an unnecessary hardship. Jamin Simmons seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

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

Larry Baldwin made a motion that hardships do not result from actions taken by the Petitioner. Harry Simmons seconded the motion. The motion passed unanimously (Andrew,

Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

Larry Baldwin made a motion that granting the variance request subject to the condition previously discussed 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. Harry Simmons seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

This variance request was granted with the condition that within nine months the HOA must approve project funding or the variance will expire. The sandbags for buildings 1-8 will be removed by May 4, 2020.

**Bugg (CRC VR 14-12), Salter Path, Oceanfront Setback
Roy Brownlow, Jill Weese**

Roy Brownlow gave an overview of the property. Jill Weese of the Attorney General's office represented staff reviewed the stipulated facts stating Petitioner owns an existing house and property in Salter Path within the Hoffman Beach Subdivision. Petitioner proposes to add 428 square feet to the existing total floor area. The Carteret County LPO denied Petitioner's permit application pursuant to 15A NCAC 7H .0306(a)(1) and 7H .0306 (a)(2) which establish the ocean hazard setback for development in the Ocean Hazard AEC. Petitioner's proposed development meets all of the conditions set forth in 15A NCAC 7H .0306(a)(8) for a static line exception except subsection (D) which requires that no portion of a building or structure extend oceanward of the landward-most adjacent structure. Petitioner seeks a variance allowing him to use the exception to the static line in order to make the additions proposed in his permit application. Ms. Weese stated that staff and Petitioner agree on all four statutory criteria which must be met in order to grant the variance. Petitioner John Bugg was present and represented himself before the Commission simply requesting that the Commission grant the variance request.

Renee Cahoon made a motion that strict application of the applicable development rules will cause the Petitioner an unnecessary hardship. John Snipes seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

Renee Cahoon made a motion that hardships result from conditions peculiar to the petitioner's property. John Snipes seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

Renee Cahoon made a motion hardships do not result from actions taken by the petitioner. John Snipes seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

Renee Cahoon made a motion 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. John Snipes seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

The variance request was granted.

**Toloczko (CRC VR 14-13), Nags Head, Oceanfront Setback
Frank Jennings, Jill Weese**

****Renee Cahoon recused herself from discussion and voting on this variance request.**

Frank Jennings gave an overview of the property. Jill Weese of the Attorney General's office represented staff. Attorney Charlotte Mitchell was present and represented Petitioners in this variance request. Ms. Weese stated the Tolozckos own property located at 119 E. Sea Gull Street in Nags Head. Petitioner proposes to develop a driveway and parking area constructed of oyster shells seaward of the first line of stable natural vegetation. On August 27, DCM denied petitioner's permit application because of its inconsistency with 15A NCAC 7H .0309(a). Ms. Weese reviewed the stipulated facts of this variance request and stated staff and petitioner disagree on three of the four variance criteria which must be met in order to grant the variance. In summary, Ms. Weese argued that granting this variance will not result in an unnecessary hardship, that the hardship is not caused by conditions peculiar to the property, and that granting the requesting is not consistent with the spirit, purpose and intent of the Commission's rules. Moreover, the requested development would likely require constant maintenance and conflict with the goal of protecting public safety and welfare.

Charlotte Mitchell, Law Office of Charlotte Mitchell, represented Petitioners. Ms. Mitchell stated this property is located within the boundaries of the Nags Head beach nourishment project. This property will be used by the property owner and renters and not everyone can be expected to have a four wheel drive vehicle. Limiting access is a hardship and it would protect public safety and welfare by providing a usable driveway for emergency response vehicle and would preserve substantial justice by providing access to non- four wheel drive vehicle

Larry Baldwin made a motion that strict application of the applicable development rules cause the petitioner an unnecessary hardship. Jamin Simmons seconded the motion. The vote was tied with five votes in favor (J. Simmons, Baldwin, H. Simmons, Gorham, Lewis) and five opposed (Andrew, Hairston, Snipes, White, Dorsey). Therefore, the motion failed.

Larry Baldwin made a motion that hardships result from conditions peculiar to the petitioner's property. Jamin Simmons seconded the motion. The motion failed with one vote in favor (Baldwin) and nine opposed (Andrew, Hairston, J. Simmons, H. Simmons, Gorham, Lewis, Snipes, White, Dorsey).

Larry Baldwin made a motion that hardships result from actions taken by the petitioner. Jamin Simmons seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Gorham, Lewis, Snipes, White, Dorsey).

Larry Baldwin made a motion 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 public safety and welfare; and preserve substantial justice. Jamin Simmons seconded the motion. The motion failed with two votes in favor (J. Simmons, Baldwin) and eight opposed (Andrew, Hairston, H. Simmons, Gorham, Lewis, Snipes, White, Dorsey).

This variance request was denied.

PETITION FOR RULEMAKING

Petition for Rulemaking Procedures (CRC 14-27)

Tancred Miller

Tancred Miller stated the Administrative Procedure Act gives the public the ability to petition the Commission to amend, adopt or repeal a rule. The CRC has 120 days from the time the petition is received. The CRC can approve or deny the petition for rulemaking. If the petition is denied then it is subject to judicial review. CRC rule 7J .0605 codifies what needs to be included in a petition for rulemaking. The DCM Director prepares a recommended response for the CRC to consider. If the petition is denied then a response is sent to the Petitioner. If the CRC approves the petition then DCM moves forward with formal rulemaking.

Petition for Rulemaking – Amend 15A NCAC 7H .0208(6) Piers and Docking Facilities

DCM Staff Recommendation (CRC 14-28)

David Moye

David Moye stated the first time the pier and dock rules were amended was 1995 this same issue of second story use came up. The current language, amended in 1998, currently says that piers and docking facilities should be single-story. The CRC considered pier length, alignment, congestion and maximum development when amending this rule. At the time we were seeing many people developing to the maximum extent of the rule. Piers were allowed to go out 400 feet, there was only a 1/3 the width of the waterbody limitation on pier length, there was no structural limitation on one versus two stories, the platform square footage was 500 square feet, the boathouse square footage was 500 square feet, but there was very little flexibility. DCM Staff looked at the permits and that information was presented to the CRC and amendments were made in 1998 to limit square footage of platform and pier length. One of the things put into rule was the elimination of second story use. Prior to that discussion we had a number of structures on the water that were greater than one story. The CRC voted to modify the rules and in January 1996 proposed rule language was brought before the CRC for discussion. Included in these changes was the prohibition on second story use. Restricting to single story structures would reduce congestion and impacts to adjoining property owners. No negative comments were received specifically related to the removal of second story use. The rule became effective in 1998. The CRC has not heard any variances for the construction of a second story use except for in urban waterfront areas. The Commission has since adopted urban waterfront rules that allow for second story use.

Petition for Rulemaking – Amend 15A NCAC 7H .0208(6) Piers and Docking Facilities

Warren Eadus, Quible & Associates

Warren Eadus stated Brian Rowe is the petitioner and has proposed to strike out 7H .0208(6)(f). This would still limit use but would require a CAMA Major Permit decision. DCM has three reasons that we shouldn't have second story use. The biggest reason is that it promotes non-water dependent uses. I would argue that adding walls would make it habitable, not a roof. The view shed is subjective. Congestion was another concern of DCM. I fail to see how a deck on top of a pier would add to congestion. It gets people out onto our resource and marine contractors would love to go out and build some of these. We feel like this is unobtrusive.

Greg Lewis made a motion to deny the petition for rulemaking. Jamin Simmons seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

CRC RULE DEVELOPMENT

Fiscal Analysis 15A NCAC 7K .0208 Single Family Residences Exempted (CRC 14-29)

Mike Lopazanski

Mike Lopazanski stated this rule exempts from CAMA permit requirements the construction of single family structures along the Coastal Shoreline AEC. If the structure is sited greater than 40 feet landward of normal high water or normal water level, there is no land disturbing activities within the 40 foot buffer area, consistent with other CAMA standards and local land use plans then the construction is eligible for the exemption. These exemptions require a notification and signed statement of no objection from the adjacent property owners. The exemption allows construction of an accessway perpendicular to the water as long as it complies with 7H .0209. The time frame associated with the exemption is one year. The amendments to this rule remove the requirement for a signed statement of no objection, expand the timeframe of the exemption to three years, and allow house to water accessways to be constructed of materials other than wood. The fiscal analysis indicates that DCM issues an average of 123 exemptions of this type per year. Of these we estimate about six permits a year get elevated to the Minor Permit process because the property owner do not have signed statements from adjacent property owners. There is a \$100 fee associated with the Minor Permit. There would be a \$600 savings to property owners in permit fees as well as the time savings to everyone. There would be no effect on NCDOT permitting. DCM could save \$540 in local government reimbursements. Local governments would see a net loss of \$1,140 because of the loss of reimbursements and permit fees. The overall fiscal impact of this rule change is \$4,000 savings over a ten year period.

Renee Cahoon made a motion to approve the fiscal analysis for 15A NCAC 7K .0208 for public hearing. Larry Baldwin seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

Fiscal Analysis High Hazard Flood AEC 15A NCAC 7H .0304(2) and Repeal of 15A NCAC 7K .0213 Single Family Residences Exempted from CAMA Permits

Mike Lopazanski

Mike Lopazanski stated single family residences are eligible for this exemption provided they are not located in the ocean erodible area or are not in an inlet hazard area, are constructed on pilings, do not require other approvals for construction, have signed the AEC hazard notice and pay the \$50 fee. FEMA establishes the V-Zones on the Flood Insurance Rate Maps. The National Flood Insurance Program requires compliance with the NC Building Code. The NC Building Code sets the standards for piling supported structures. The CRC has moved ahead to repeal the High Hazard Flood AEC since the CRC's rules defer to the NC Building Code making the High Hazard Flood AEC redundant. The fiscal analysis indicates that there are a little over 10,000 properties solely within the High Hazard Flood AEC. This action would remove those properties from CRC jurisdiction. We issue an average of 24 exemptions in this area every year and collect a \$50 exemption fee. We issue an average of one Major Permit within the High Hazard Flood AEC. Property owners would realize a \$1,600 savings in permit fees, there would be time savings to all parties, there would be no effect on NCDOT permitting, DCM would see a \$200 per year savings, and local governments would see a \$1,800 loss in reimbursement fees for not issuing the exemptions. The fiscal impact over a ten year period is \$11,000.

Harry Simmons made a motion to approve the fiscal analysis for 15A NCAC 7H .0304 for public hearing. Larry Baldwin seconded the motion. The motion passed unanimously

(Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

Harry Simmons made a motion to repeal 15A NCAC 7K .0213. Renee Cahoon seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

Inlet Management Study Priorities – Draft Final Report (CRC 14-33)

Mike Lopazanski

Mike Lopazanski stated the CRC was directed to study the feasibility of creating a new AEC for the Cape Fear River region. During that study we focused on regulatory concerns of the various stakeholders involved as well as some of their proposed strategies for dealing with those concerns. After concluding that study the CRC undertook a more comprehensive review of inlet related issues. There are some related initiatives that we have rolled into this study including the Inlet Hazard Area Study that the Science Panel is working on to look at the feasibility of eliminating the inlet hazard areas and incorporating development standards as well as developing erosion rates. The study relies heavily on work by the Science Panel. We weren't able to have a draft report ready at this meeting, but we will have it at the December meeting. There is also the related issue of different permit mechanisms that were put in place to streamline inlet dredging projects. During the study the CRC identified ten inlet management topics. This information was used as the context for four regional public meetings. The goal of the meetings was to solicit stakeholder input on a range of management options as well as regulatory reforms that we could use to address inlet management and to build on the recommendations that we received from the Cape Fear region study. At the last CRC meeting, the stakeholder input was organized into short and long-term priorities. Staff further prioritized action items. These action items will directly address our inlet management related issues, are within CRC and DCM jurisdiction, will build on current initiatives we already have underway, and include both short and long-term actions. We are currently working with the Science Panel on the Inlet Hazard Area Study. Staff has been focused on developing a methodology for calculating the erosion rate in the inlet areas. We are likely to see a recommendation from the Science Panel saying that you cannot just eliminate the inlet hazard area. There needs to be a management area in which to apply specific development standards. For the deep draft Port or navigation inlet hazard area we found that we initially wanted to separate deep draft from shallow draft because they had different management objectives associated with them. The determination was made to go ahead and look at the State Port inlets specifically (Cape Fear River Inlet and Beaufort Inlet). We have received comments from various stakeholders. We have some specific comments from the US Army Corps of Engineers as well as the State Ports that will need to be addressed. We are in the preliminary stages of establishing a new AEC and are proposing more stakeholder involvement. The Division relies on other agencies to provide comments when it comes to the timing of dredging and beach related projects to minimize the effects on biological activity. There is currently a consultant study underway that is looking at the feasibility of expanding the dredging windows. A workshop was held and Commissioner Dorsey will provide an update on the workshop. We have had a lot of discussion on the alternatives to the static line. We have a static line exception in place that provides some relief by allowing smaller scale development provided that local governments have a demonstrated commitment to long-term beach nourishment. We will consider two alternatives to either eliminate the static line or make amendments to the static line exception to provide additional relief to communities that have had large-scale projects. At the December meeting we will review the Science Panel report related to the inlet hazard areas and

incorporate that into the inlet management study report. This report will be sent to the Department, the Governor, and the Legislature.

Renee Cahoon made a motion to approve the Inlet Management Study Final Report. John Snipes seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, Snipes, White, Dorsey).

PRESENTATION OF COASTAL ISSUES TO GOVERNOR MCCRORY

Frank Gorham

Frank Gorham welcomed Governor McCrory on behalf of the Coastal Resources Commission. Chairman Gorham stated that there are over 100 elected officials and business community leaders present today from all 20 CAMA counties. After regional town hall meetings we identified the top issues for coastal communities. Some of these issues are not within the jurisdiction of the CRC but are the responsibility of other State agencies or the federal government. But the town people don't care who has jurisdiction, they just need assistance with these issues. We have compiled a coastal issues panel consisting of Chris Dumas, Harry Simmons, Layton Bedsole, Ken Willson, Willo Kelly, and Todd Roessler. We picked panelists that work in the trenches every day. Chairman Gorham thanked Governor McCrory for attending and for caring about the issues.

Governor McCrory stated the main reason I am here is to listen and learn. There are so many complex issues that the CRC is dealing with at this point in time. We have experts in certain fields here. Some of these issues conflict with each other; some of the issues are federal, state or local issues. As the Chairman said, the jurisdiction of many of these issues is confusing. We are here to figure out how to balance all of these complex issues to develop a long-term vision for coastal North Carolina. I will quote my Dad who was a small town city council member in Ohio before we moved to North Carolina in 1966. He said the following, "We must walk the fine line between continuing our economic prosperity while also protecting the environment and quality of life which brought many of us here." It is not necessarily a straight line, right and wrong; it is a balance because we need to have economic prosperity while protecting what brought many of us here. That is where the controversy comes in - where to draw the line. One way to help determine that line is to learn as many issues as you can on all sides of that line and recognize the complexities and that there are no simple solutions. As Governor I have many, many issues. I am responsible for as part of a \$20 billion budget, I have eight major departments reporting to me in addition to three other departments that aren't cabinet departments, and each of those often has conflicting objectives and visions. We meet every Tuesday morning to discuss the issues and learn from each other as a team effort. I want to show a brief video that we have shown across the State relating to the goals we have in the Department of Transportation for our 25 year infrastructure plan which we just announced a few weeks ago. Tony Tata, Secretary of Transportation, has been traveling the State along with me communicating this all the way from the Tennessee boarder and Georgia boarder all the way to the coast. I thought it would be good for everyone to see this video because the State into several different sections and talks about Coastal Carolina, then the East, the Piedmont, and the West. There are some unique challenges in each of these areas and yet they are all intersected. The video is about our long-term plans for transportation, but you will see the intersection on economic development issues regarding our Ports, travel and tourism, and other factors.

At this time the Governor presented the 25-Year Vision: Comprehensive Solutions
<http://www.youtube.com/watch?v=ZtLdYx9L5i0>

This is just a brief outline of some of our thinking regarding some of the complexities and issues in the coastal area. Each area has specific issues, but the coastal area has more intricate issues that we have to deal with than any other part of the State. You have the natural dynamics that are often out of our control. We need to present our vision for how to address these issues and then get consensus for that vision. We have to form partnerships with our fellow states and with the federal government in economic development and environmental issues. Neither of these issues recognizes local and state boundaries. This is part of the 25-year vision plan.

Economic Value of the Coast, Dr. Chris Dumas

Chris Dumas, UNCW Department of Economics and Finance, stated he was happy that the Governor's video talked about infrastructure because I would like to think of our beaches, inlets and waterways as infrastructure. Similar to bridges and highways, they allow the public to access resources. The Inter Coastal Waterway (ICWW) is an interstate infrastructure. Inlets and ICWW are used by non-locals and out of state folks as well as our beaches. It costs money to maintain this infrastructure, but the benefits are very large, often larger than the costs. This presentation will focus on the benefits from beach recreation, commercial fishing, charter/headboat fishing, and private fishing. The value of beach recreation spreads across the State. Statewide \$1.4 billion of direct expenditures is related to beach recreation and 35,000 jobs are directly supported by beach recreation. 25% of beach users in North Carolina are from out of state. This brings new dollars to the state. Commercial fishing occurs throughout the state. In Carolina Beach \$4.6 million is generated from fishing revenues and seafood processing and it supports 425 jobs in that local area. At Oregon Inlet in Dare County \$82.7 million is generated by commercial fishing and seafood processing supports 1325 jobs in Dare County. These are jobs that are important to these local regions. We did a study in 2009 where we looked at the sport fishing industry in North Carolina. We surveyed 150 charter/headboat captains and 1,300 passengers. We found that there are over 70,000 vessel trips serving 431,000 passengers per year in North Carolina. These passengers spend \$65 million on fees, an additional \$155 million on food and lodging in coastal areas, and support 1445 captain and crew jobs. The number of jobs supported coast-wide by the sport fishing industry is 4,900. This industry is directly dependent on having navigable inlets all along the coast. About 50% of passengers say that for-hire fishing was the primary reason for their visit. About 50% of passengers are from out of state and about 90% of charter and 60% of headboat visitors spent at least one night in the coastal area. There are hundreds of thousands of private boats that use our waterways and inlets for recreation and sport fishing every year. We did a study in 2007 focused on the larger (16-feet in length and larger) private boats that are most affected by navigability problems in the waterways and inlets. We surveyed over 1,600 private boaters on the AIWW. There are over 204,000 private boats that are registered in North Carolina near the AIWW. These vessels take over 134,000 trips per year and about 14% of these trips are taken by non-North Carolina residents. North Carolina residents spend \$47 million in the coastal area. There is \$60.5 million in direct spending and 4,000 jobs supported from private boat recreation. In the waterway study we asked our boating survey respondents what they would do if waterway navigability became worse. We found that we would see a 45% reduction in trips by North Carolina residents and a 30% reduction in trips by non-residents coming to North Carolina which translates to about \$103 million reduction in sales statewide and 1,600 jobs lost. We asked if they would be willing to pay for an additional sticker to put on their boat if that money was dedicated to waterway and inlet maintenance. Of the survey respondents, 74% of residents said yes and would pay an average amount of \$90 per year and 69% of non-residents would pay an average of \$99 per year.

Reduced Funding for Coastal Projects, Mayor Harry Simmons

Harry Simmons, Mayor of Caswell Beach, stated this presentation will be about beach project funding. Photos were shown of the beach in Caswell Beach in January of 1997. In 2001, we put a lot of sand on the beach and it made a big difference. Most of that beach width is still there. Photos were shown of North Topsail Beach before and after putting sand on the beach. The lessons of Superstorm Sandy show us that wide beaches, high dunes and elevated homes can limit storm damages. This combination results in the least storm damage and the least overall community misery. Wide beaches and high dunes provide storm protection while elevated homes limit or even eliminate the impacts of flooding. In fiscal year 2014, the federal government appropriated \$120 million, not counting Sandy Recovery funding, for coastal storm damage reduction. For fiscal year 2015, the Administration's proposed funding will only be \$20 million. There is a possibility that we will see \$75 million in 2015 but that assumes that Congress actually passes an Appropriations Bill. The recent "no earmarks" rule prevents congressmen and senators from doing much about the problem and the Office of Management and Budget (OMB) are the biggest federal problems. Congress is still supportive of beach projects; however the career employees at OMB, not elected by anyone, have a cultural bias against beach projects that is not supported by the data. By the way of comparison, fighting forest fires in America is federally budgeted at almost \$2 billion each year. North Carolina must prepare for less federal funding by identifying one or more sustainable state funding sources, much like we did for shallow draft inlets and the AIWW. The lessons learned from Sandy tell us that building wider and higher beaches with dunes can help protect North Carolina's coastal infrastructure, homes and businesses from storms. If federal funding is to be less, we must pick up that slack with state funding. All of us in attendance today must become engaged in finding the solutions. Solutions will involve finding new money. Possible sources of this new money include sales tax increases, food and beverage taxes, and offshore energy revenues. It will cost more to regain ground if we wait too late to start these efforts. Much of what I have mentioned can be found in an existing document already paid for with state funds. This document is the Beach and Inlet Management Plan and was created about 7-8 years ago and is not being fully utilized. Some of the numbers that Chris Dumas just showed you can from this same report. It needs to be updated and will take some money to do that, but it breaks down the entire state by sections and talks about what needs to be done in each of the sections.

Dredging Policies, Ken Willson and Layton Bedsole

Ken Willson, Client Program Manager CB&I, stated two years ago we started working on a voluntary initiative based on the lack of federal funding for dredging. We have seen a decrease in federal funding for quite some time and started looking at ways that we could make these projects more affordable for local communities. Harry talked about increased funding which is one way to make projects more affordable, but the other is how to decrease the cost of the projects. This group that I have been working with has been looking at one of the most obvious ways to decrease the cost and that is expanding the dredge windows. Right now we only have about 4 ½ months out of the year to dredge sand. Winter is the worst times of the year for dredgers to be working in the offshore area. It is the most dangerous time and you pay a premium for putting these guys out there in the most dangerous time. We understand the dredge windows are there for a real reason to keep up with the balance of economics and the environment. We know there was a project in Nags Head in 2011 using technology and proper conservation measures that can have minimal to no impact to the resources. We thought it would be a worthwhile effort to look at the data to see if it could be updated or see if there is new technology or new information. We have a working document. We did a quick economic analysis to look at the potential benefits to the costs of dredging using some efficiency curves that have been developed by the Corps of Engineers using existing projects and dredge costs. We looked at the projects that have already been estimated by the Corps and looked at

what they would cost if we could use the best part of those efficiency curves being in the summer as opposed to the winter. What we found was that we could see anywhere from 14-35% reduction in the costs of these projects if we could build them year round. When we look at the environmental information perhaps we can't build these things year round, but even widening those windows could see some relief for the costs of these projects. We also wanted to give some context to the summary of the authorized beach nourishment projects in North Carolina. Only about 26% of our coast is actively being nourished. We are lucky enough to have a lot of undisturbed areas in North Carolina that are not being impacted. We wanted to look at the impacts of dredging and beach management in context so when we talk about dredging all year long then we aren't talking about dredging and disturbing all of the beaches every year. Included is an assessment of potential impacts and mitigative protocol. We are letting environmental agencies and interest groups review this working document to seek out the folks that are willing to find the balance. We know there are folks on either side that are going to dig in their heels and are not interested in finding common ground. We are working to bridge the gap.

Layton Bedsole, New Hanover County Shore Protection Coordinator, stated the federal government gets dollars on October 1 and once they get their dollars, then they begin their planning and specifications and putting together bid packages. Once the bids are assessed and awarded then a contract is negotiated. Then the mobilization begins at the sites. That can take months. The past couple of years the Corps' contractors have been late coming to North Carolina. They have been arriving in late January or the middle of February. The magnitude of our projects immediately puts the completion of the project outside of the window. That frustrates the Corps, it makes the local stakeholders' jobs more difficult to get ready for the season, and the resource agencies are perturbed. If we could tweak the process by which the Corps gets their funds then the contractor would have more time to get to the site to work within the entire environmental window. If we were to open up the entire window to construction perhaps we may actually get better prices.

Governor McCrory asked what the counter argument was to this proposal. Ken Willson responded that if we go longer then we get into turtle windows when they are nesting and there are some bird issues. Renee Cahoon stated Nags Head did their project from May to October with one turtle take, and that turtle was just seen in the water and not taken. Frank Gorham stated we can mitigate the damage to the turtle. Governor McCrory suggested talking to the Interior Secretary about this issue.

Flood & Wind Insurance, Willo Kelly

Willo Kelly, Outer Banks Home Builders Association/Outer Banks Association of Realtors, stated flood insurance is a federal issue, but wind insurance is derived from homeowners insurance. The affordability of homeowners insurance is a statewide issue. There needs to be a balance in protecting the policy holder and keeping rates affordable while also maintaining a viable and sustainable insurance industry and market in this State. The rate making process is flawed. We have a policy holder versus industry stance. The cost of property insurance plays a vital role in housing affordability, investments in our communities and our overall economic health. It impacts one's ability to obtain or maintain a mortgage. Insurance rates are based on overall risk, reasonable profit, and cost of reinsurance. We are forced to buy insurance if we have a mortgage from a for-profit company and we have no control over their overhead and expenses. When we buy reinsurance that money goes out of the state of North Carolina and out of this country. In 2008 we were looking at a double digit rate increase for the third time in six years. There are 32 counties and the City of Charlotte that had not seen a rate increase in 20 years until the rates went into effect last July. There is no separate rate making process for wind rates, it is included as part of the homeowners insurance rate. Eighty-two counties pay a homeowners insurance premium that includes fire, liability and

wind. In the 18 counties in eastern North Carolina, over seventy percent of policy holders have a separate policy through the Beach Plan. In the rate filing there is an exclusionary rate just for wind in those counties. The 2011-2013 NOAA Severe Weather Report Maps indicate that the entire state is at risk of severe weather and catastrophes. Looking at the coastal property insurance pool (Beach Plan) right now there is \$90 billion in exposure. That exposure number is made up of not only the dwelling value structures it also includes personal property at 40% and it also includes other structures and loss of use. We only have \$14 million in losses in 2013 and paid out half of the premiums earned in reinsurance costs. The Beach Plan wind pool is not for rich vacation homeowners. They only make up 10% of the total plan, 73% percent of the policy holders in the beach plan do not live on the barrier islands. We need more transparency of data, to pass legislation allowing the Insurance Commissioner authority to lower the rate, and reconvene the General Assembly because the Insurance Commissioner announced on Monday that our rates should be lower than what they are but he has no authority to lower rates. We need to discuss the creation of a statewide task force on insurance.

Increasing Federal Regulation, Todd Roessler

Todd Roessler, Kilpatrick Townsend & Stockton Attorneys at Law, stated this presentation will focus on the issues revolving around the Endangered Species Act (ESA). My understanding of this issue has been informed by my representation of local governments on coastal issues. The ESA has been around for a number of years and was originally passed in 1973. The ESA seeks to protect and conserve listed species and their habitat. There are two key provisions. Section 9 is the Take Prohibition which says that you can't take a listed species. Take is broadly defined and involves more than killing, it includes harming or harassing. The Take Prohibition applies to both federal and non-federal activities. The second provision is the Consultation Provision. This says that for any federal activity there needs to be consultation with the Fish and Wildlife Service or National Marine Fisheries before they implement that activity. What this provision tries to do is avoid jeopardy to a listed species. It also prevents any adverse modification of critical habitat. This provision only applies to federal agency activity. Some of the species of concern in North Carolina are the piping plover, loggerhead turtle, Atlantic sturgeon, and red knots. The controversy is not limited to North Carolina but is up and down the east coast. It has shut down beaches for recreational use, halting beach renourishment projects, and brings uncertainty to the process. I will review the process for designating critical habitat for the loggerhead turtle and some of the statements federal agencies made and what the local concerns are. The first statement is that it is not a big deal and consultation only applies to federal agency activities. This is true, but you have to remember Section 9 Take Prohibition applies to non-federal activities. With respect to critical habitat almost any activity at the coast is going to involve some kind of federal activity. The second point made by the federal agency is that you don't have to worry about designation of critical habitat because there will be no additional management measures. This is highly questionable. When you look at how they designated critical habitat for the loggerhead they listed a number of threats to critical habitat. Anything that happens at the beach is considered a threat. There may be additional management considerations that need to be put in place to address those threats. Consultation is required to avoid jeopardy and to prevent adverse modification of critical habitat. You can't say that we are already looking at jeopardy so you don't have to worry about critical habitat. Those standards are different. Lastly there is a citizen suit provision in the ESA. This allows non-governmental organizations to file a suit and say that there are additional management considerations that are required to address this critical habitat issue. In the economic analysis that was done by the federal agencies, the US Fish and Wildlife Service said that designation of critical habitat for the loggerhead turtle will result in \$1.2 million of impacts over the next ten years. That comes down to \$26,000 annually for North Carolina. There are a number of reasons for that. The first is the method they use to evaluate

economic impacts. It vastly underestimates the economic impacts. There are a number of activities that occur at the coast that could be impacted by this designation. Our beaches drive our economy and it is important that this is addressed. The last point is that both Fish and Wildlife Service and National Marine Fisheries have taken the position that designation of critical habitat will not affect the coastal zone of North Carolina or any other state. This is important because under the Coastal Zone Management Act there is what is called a consistency determination. When a federal activity is impacting the coastal zone, the federal agency has to make a consistency determination. It gives DCM an opportunity to evaluate the information and determine whether the activity is consistent with North Carolina law. Without that consistency determination the State cannot evaluate what the impacts of this designation would be. Both Fish and Wildlife Service and National Marine Fisheries have proposed revisions to the critical habitat regulations. There is a lot of concern about this. We are asking the State to support the local concerns. There is a number of ways the state can do this. We can support the federal legislation to amend the Endangered Species Act. We could also improve coordination with federal agencies. The State could also support the statewide programmatic biological opinion. That is a document that looks at the impacts on listed species and their habitat statewide. That would prevent each local government from going through this process individually and provide more predictability. We request the State challenge the lack of consistency determination. It is not just the loggerhead that this will impact. Without the consistency determination the State's hands are tied and they cannot evaluate what the impacts of these designations are.

Governor McCrory stated there are three initiatives regarding offshore drilling. My first goal is to find out what we have and over the next two years do some seismic testing. Once we find out what we have then we will come up with the right process and procedures to get it. A parallel track is to get federal assurance to do revenue sharing similar to the Gulf States. The current laws will not allow us to share that money. There is no way North Carolina will do this without sharing the revenue. If we get that agreement then we would not implement it until part of that revenue share goes to the people who will have it in their back yard. The legislature can use this money for beach renourishment and dredging. A big issue that we are having that affects all of us and is really impacting NCDOT and DENR is lawsuits. We are spending so much on lawyers that we could be spending on cleaning up the environment or beach renourishment. It is stalling projects and increasing their costs. I need your help in finding out who is funding these lawsuits. The dilemma we have is even if we started taking actions on some of today's recommendations then the lawsuits will delay much of the action. Now is the time to be pragmatic and realistic. The CRC needs to come up with some specific, detailed proposals and I, as Governor, will go to Washington DC or make the invitations for them to come here to see North Carolina's unique concerns. We can also form coalitions with other states that are dealing with the same problems. In January I will be going to DC for the National Governor's Association and will be glad to work on these issues. The best way to deal with the federal government is to do it as a coalition.

The Commission recessed and resumed meeting on Thursday, October 23, 2014

MINUTES

Renee Cahoon made a motion to approve the minutes of the July 2014 Coastal Resources Commission meeting. Harry Simmons seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Hairston, Lewis, J. Simmons, H. Simmons, White).

EXECUTIVE SECRETARY'S REPORT

Braxton Davis, DCM Director, gave the following report:

I would like to extend a special welcome to our newest commissioner, Bill White, who has been appointed to the Coastal Forestry seat on the commission. Commissioner White, the staff looks forward to working with you, I hope that we can get together soon so that we can provide an overview of the Division of Coastal Management and I also hope that you will let us know if you need anything at all to help you get up to speed on the work of the Commission.

I thought the panel yesterday afternoon with the Governor went very well, speakers did a great job, and I appreciate the significant time and effort that the speakers, commissioners, and DCM staff contributed to pull that event together. Obviously this is a very busy meeting, and given the amount of materials that staff were preparing, I did not ask them to help me pull together the usual DCM "Update Memo." However, we have passed out copies of our recent fall newsletter that includes many updates on activities within the Division. In it you'll find an overview of the ongoing work on the CRC inlet management study and the Science Panel's work on the sea level rise study; an overview of our recent round of public access grants and Clean Marina certifications, a legislative update, and an update on key litigation involving the Division. As you may remember, the 2014 Regulatory Reform Act was signed into law around the time of our last meeting and included a provision repealing Inlet Hazard Areas in a few locations. You'll hear more about that as we discuss the inlet management study this afternoon. The Act also removed the automatic stay on CAMA permits that are appealed by 3rd parties, and staff have made the appropriate changes to our notification letters and procedures. Also, on October 6 the NC Supreme Court heard oral arguments on the Riggings HOA v. CRC regarding a variance request to allow sandbags to remain indefinitely at the site on Kure Beach. A decision on that case is expected early next year. Also in the newsletter we were pleased to announce that we've partnered with East Carolina University on a two year grant from the Bureau of Ocean Energy Management to evaluate offshore geological and geophysical data in northeastern NC to help identify potential sand resources and benthic habitat areas. In yesterday's meeting, we continued our work to reduce regulatory burdens by seeking your approval of fiscal analyses for two of the rule changes proposed by staff this year. Today we'll be discussing rules related to coastal wetlands and beginning our discussion of proposed changes to your Land Use Planning rules. We'll be starting to get into more details of these significant changes following on the broad outline I provided at your last meeting. Staff have also been working to present some details in response to your proposed review of the beachfront "static line" and the creation of a new jurisdictional area for inlets that are managed for navigation for the two State Ports. We also staffed a meeting that was hosted by Commissioner Dorsey in Wilmington to discuss next steps on the study of dredging windows. We'll conclude with an overview discussion of our Coastal Reserve program. Staff have also been busy with activities related to the potential for offshore energy development. In particular, the Division undertook a federal consistency review of a proposal to conduct seismic surveys by the National Science Foundation along transects offshore of Morehead City and Cape Hatteras. While these surveys were not intended to explore for potential oil and gas reserves, the technology and procedures used were very similar to those used for oil and gas exploration, so this was the first proposal of its kind in several decades. The Division found that

the proposal was consistent to the maximum extent practicable with the policies of the NC Coastal Management Program, but requested additional mitigation measures to match those proposed by BOEM for companies conducting surveys related to oil and gas development. We also submitted a formal request to NOAA to review future proposals for offshore seismic surveys related to offshore energy exploration, and we anticipate a decision on that request by the end of the month. Regardless, we have already had several meetings with geological and geophysical survey companies regarding future seismic surveys, with the shared goal of minimizing any potential resource impacts or conflicts with other ocean activities, such as commercial fishing and fishing tournaments. To give you a feel for the size of these operations, a seismic survey vessel can be trailed by a mile-wide array of around two dozen “streamers” with acoustic equipment that are five to seven miles in length. The ships may operate somewhat continuously over the course of several months. Additional proposals are anticipated over the next two years.

I want to welcome Brandon Puckett, our new Research Coordinator for the Coastal Reserve program, who started in August at our Beaufort office. Brandon has an Environmental Science degree from NCSU, a Masters from Maryland and a Ph.D. in Marine Science from NCSU, so he brings extensive experience in research/monitoring in NC estuaries and we’re excited to have him join DCM. I also want to welcome Greg Daisy to our Division; Greg is our new representative for DOT projects out of the Elizabeth City office but couldn’t be here today. For those who can make it, our Coastal Training Program is hosting a workshop for Real Estate professionals on December 9 at Jennette’s Pier in Nags Head. Please let us know if you would like more information on that event.

DENR will hold a public hearing at 9am, October 29, to receive public comments on a proposal to amend the State Dedicated Nature Preserve on Bald Head Island, N.C., which is a site that we manage within the Coastal Reserve Program. The hearing will be held at the Bald Head Island Conservancy, with a satellite location at the Deep Point Marina in Southport, N.C., for those unable to travel to the island. The agency will propose to amend the boundary of the dedicated area to facilitate the location of water supply wells for the Village of Bald Head Island. Also included in the proposal are measures to protect trust resources such as rare and listed plant species and community types within the dedicated area near the proposed well sites. The Division issued a permit to the Village of Bald Head Island earlier this week for a terminal groin. That’s the first permit issued pursuant to the terminal groin legislation passed in 2011 and we certainly learned a great deal along the way as we worked through the requirements of the law. Finally, we are planning for the next Commission meeting to be held at the NOAA Auditorium on Pivers Island in Beaufort on December 17-18.

CHAIRMAN’S COMMENTS

Chairman Gorham stated he had a chance to talk to the Governor’s staff this morning. The Governor was pleased with the number of people in attendance, impressed with the panel members, and will wait for the CRC’s report. The CRC needs to do a better job of assigning priorities to DCM. We cannot continue to add to the list of priorities without removing other priorities since

DCM has a limited staff available to work on these issues. There are still two vacant Commission seats.

ACTION ITEMS

15A NCAC 7H .0205 Coastal Wetlands – Occasional Flooding Criteria (CRC 14-31)

David Moye

David Moye stated we have a process for determining the extent of coastal wetlands using field and biological indicators that has been in place for 40 years. Staff has been trained through classroom education and through field training with the Division to identify coastal wetlands. The definitions of coastal wetlands in the N.C. General Statutes and the N.C. Administrative Code are basically the same and uses a two part test.. The first part of the test is whether any of the ten species of coastal wetlands plants have been identified on the site. The second part is whether the area is subject to regular or occasional flooding by tidal influence or wind tides. There are provisions within the rules that discount hurricanes or tropical storm tides. The reason for that was very simple. No one wanted areas flooded during hurricanes or tropical storm tides to be identified as coastal wetlands because that is only going to happen in an extreme event. If you look at what the Corps of Engineers does, they have field sheets to determine soil, plants, and water in the hole. They make note of their findings and give the property owner notice in writing whether they have delineated wetlands on their property. We have never had that type of process. The Corps goes through this process, but when it comes to putting out flags it is still subjective. If we can put this information into a rule then it would codify in rule the field verified information that we have always looked for. We have also developed a tear sheet, similar to what the Corps uses, so the field staff can note the indicators used and the species present. A copy of this information will be provided to the property owner. That will give them an opportunity to challenge that call to the District Manager and up to the Division Director if necessary.

Chairman Gorham asked Larry Baldwin, David Moye, and Craig Bromby to look at the process and if there is a need to provide an opportunity to appeal to the CRC following a wetland delineation.

Mary Lucasse noted that in the proposed rule amendment “and” should be changed to “or” in the list of indicators.

Harry Simmons made a motion to send amendments to 15A NCAC 7H .0205 as revised to public hearing. Renee Cahoon seconded the motion. The motion passed unanimously (Andrew, Hairston, J. Simmons, Baldwin, H. Simmons, Cahoon, Gorham, Lewis, White, Dorsey).

PUBLIC INPUT AND COMMENT

Steven Edwards stated he works for the Town of Oak Island and is a CAMA LPO and supports repeal of the static vegetation line.

Julie Damron, Shane Johnson, Sherri Pridgen, Peggy Stone, Steve Shuttleworth commented on problems with the static line in Carolina Beach and support using the development line that Carolina Beach already has to determine setbacks.

Robert Broome, NC Association of Realtors, commented on the adverse impacts of the static line exception for single family residences and duplexes.

Frank Rush, Town Manager of Emerald Isle, commented on concerns about the static line exception process and setbacks associated with the static line exception. Emerald Isle supports a development line.

Proposed Amendments to 15A NCAC 7B CAMA Land Use Planning Guidelines and 7L Land Use Planning Grants (CRC 14-32)

Mike Lopazanski

Mike Lopazanski stated North Carolina participates in a federally approved Coastal Management Program. It is a comprehensive resource management program administered by NOAA. It combines regulatory and planning components as part of the methodology used to look at comprehensive resource management and address growth and development issues. When it came to developing North Carolina's program the question was how to design a program that addressed both State and national concerns in an area with a tradition of local government autonomy and a strong advocacy of private property rights. The state legislature originally proposed that a professional staff would make the regulatory and planning decisions, however in order to address the initial opposition to CAMA, a compromise was reached where a local and state partnership was seen as essential to achieving resource protection and promoting economic development. The program that was designed for North Carolina emphasized local government control, utilized a citizen commission, and involved the folks that were affected by the program. Prior to the adoption of CAMA, most of the rural counties and small towns in eastern North Carolina had very little comprehensive planning or regulations. A lot of local governments were opposed to land use planning. Planning was seen as an essential component to the North Carolina Coastal Program. In the development of land use plans, the CRC sets the standards and the local governments are responsible for developing local policies based on the issues identified by the CRC. It is important to look at the changes to the program over time as it has evolved. We are at a point where most of the local governments are participating in some level of planning and at one point there were 72 land use plans. At the last meeting Braxton Davis presented some broad changes to incorporate into the land use plans that would provide increased flexibility for the planning content and format, clarifying that amendments and updates would be voluntary, and facilitate a new process for the review of CAMA Major Permits as well as ways to streamline plan approval. We partnered with the Coastal Federation and BASE in series of workshops to solicit recommendations from the local governments. Based on the interactions with local governments we have tried to reduce the overall burden on local governments and shift the emphasis to local policy development. We are instituting shorter timelines through the review of amendments and updates as well as having the certifications and updates delegated to the Division. Another major change will be the shift from the traditional CAMA land use plan to allow comprehensive planning effort that incorporates the elements of the 7B Guidelines into a comprehensive plan that will serve as their CAMA land use plan. In 7L we want to identify funds to make available on an annual basis for planning and management projects to address public access, plans, local ordinance development, and waterfront development plans.

We have taken these proposed amendments and let local governments review them. At the December meeting we will bring comments received to the Commission. After any changes by the Commission, we will request approval to go to public hearing with the proposed amendments.

Static Vegetation Line Alternatives (CRC 14-34)

Mike Lopazanski/Ken Richardson

Mike Lopazanski stated one of the priority items in the inlet management study report was to look at the static line and static line alternatives. Setbacks in North Carolina use a graduated system. The structure size dictates the distance from the first line of stable natural vegetation based on the erosion rate. The Division updates the erosion rates every five years and the minimum erosion rate is always two feet per year. Setbacks are calculated from the first line of stable vegetation and is determined in the field on a lot by lot basis. When there is a large scale beach fill project, it results in the first line of stable natural vegetation being surveyed in and this pre-project vegetation line becomes the static line which is used as the measurement line from which setbacks are measured. If the vegetation line is landward of the static line then the vegetation line will ultimately dictate the setback. In the current rule, a large-scale beach nourishment project is defined as greater than 300,000 cubic yards of sand or any storm protection project constructed by the US Army Corps of Engineers. In concert with the change to the graduated setbacks in 2009, there was recognition that the static line was having an impact on property owners as well as the increasing commitment of local governments to beach fill projects. The static line exception was created as a mechanism to provide some local relief to property owners by allowing limited development based on the existing vegetation line and a local government's documented commitment to long term beach nourishment projects. In addition to being allowed to use the existing vegetation line, development is limited in that it cannot be any further seaward than the landward most adjacent neighbor. The CRC authorizes the static line exceptions and reviews the exceptions every five years. Should a local government choose not to maintain their beach the small scale development provision puts fewer structures at risk.

There isn't much difference between the two alternatives that have been proposed. The Chairman has proposed eliminating the static line and utilizing a development line. Staff has proposed removing some of the restrictions associated with the static line exception. The main difference between the two proposals is the demonstrated commitment on the part of local governments to maintain their beach projects. The Chairman's proposal would eliminate the 300,000 cubic yard rule, no new development would be seaward of an existing development line determined by the local governments after being reviewed by the Division and Commission, the vegetation line would be used for setbacks in the absence of a development line, the graduated setbacks would remain, new or replaced structures would be sited based on the vegetation line or the development line whichever is further landward, and there would be no development on public trust areas. Staff has proposed amending the existing static vegetation line exception rules, by repealing the 2,500 square foot limitation on structures as well as the five year waiting period so that a static line exception could become retroactive to when a project was completed, allowing the CRC to amend the definition of a large-scale beach fill project, retain the need for commitment to a demonstrated long-term maintenance to their beach projects, and keep the graduated setbacks.

Ken Richardson utilized aerial photography to illustrate for the Commission communities that have static lines and static line exceptions and their impact on oceanfront development. He also showed examples of the existing line of development, some unique areas that could be problematic and examples of considerations that will need to be made in the establishment of a development line.

Chairman Gorham directed staff to consider a combination of both recommendations that would not have a cubic yard limitation, have no size limitation, and would require the existing static line remain until the community has a development line approved by the CRC. If communities do not want to present a development line then they would remain under the current procedures. The CRC

would then define the process and requirements of the development line and what would represent a commitment to maintain the beach. Chairman Gorham asked that comments and input be provided to staff on this proposal.

State Ports Inlet Management Areas of Environmental Concern – Draft Rule (CRC 14-35)

Heather Coats

Heather Coats stated this process was initiated with the Cape Fear River AEC Feasibility Study. One of the recommendations of that study was to expand the scope and to look at all inlets through a comprehensive Inlet Management Study. A recommendation of the Inlet Management Study was to establish an AEC for the State's two deep draft ports taking into account the priority placed on maintaining the federal channels for access to the State Ports, specifically looking at erosion control structures, beneficial use of dredged materials, and beach management. Subsequently Senate Bill 734 was recently passed which removed these two inlets from the Inlet Hazard Area of Environmental Concern. She advised that the Division met with the local governments adjacent to these two inlets and they identified their priorities for rule changes. Carteret County commented that protecting development from erosion is not an issue at Beaufort Inlet, however there was a desire for better sand management of the inlet. There was concern expressed about the location of the nearshore dredged material disposal site that is used for the federal project which is believed by Carteret County to be too far offshore to provide benefit to the littoral system. Most of the Town of Caswell Beach's comments were centered around Fort Caswell which is now listed on the federal National Register of Historic Places. There has been erosion at Fort Caswell and they would like to see more flexibility in addressing dune erosion and protecting threatened structures. There was also mention of reducing setbacks in the area of Fort Caswell that has historic seawall protection. The Village of Bald Head Island commented on wanting more flexibility with beach bulldozing. The passing of the recent legislation removing them from the inlet hazard area now allows them to use the General Permit for beach bulldozing on all of Bald Head Island. Sand bag rules were discussed extensively, specifically when they can be used and what constitutes an imminently threatened structure, what they can protect with sandbags and the size of the bags. Sand management was also discussed. The Village's contention was that dredge material should go to the area most adversely impacted by erosion. Ms. Coats stated that the Division also took into account the Chairman's proposal for beneficial use language that came from the Inlet Management Study. It is important to note that the draft rule was developed as a result of the meetings with the local governments. We have not met with the Army Corps of Engineers, the State Ports Authority, State Parks and National Parks Service. We have sent a copy of the draft rule language prior to the meeting, however it should be noted that there has been very little time for the parties involved to review it. In consideration of creating a new AEC the Division looked at the Ocean Hazard category. There are currently four AECs within the Ocean Hazard Areas. We would add a fifth category to 7H .0304 to include State Ports Inlet Management Area. The proposed definition would be the areas adjacent to and within inlets providing access to a State Port via a channel maintained by the US Army Corps of Engineers. These areas are unique due to the influence of a federally mandated fixed channel location and the critical nature of maintaining adequate shipping access to North Carolina's state ports. As such these areas may require specific management strategies not warranted at other inlets to address erosion, shoreline stabilization, and the beneficial use of sand within the littoral system. The State Ports Inlet Management Areas shall be designated on maps approved by the CRC and available without cost from DCM or on DCM's website. This was developed with regard to the language and recommendations of the inlet management study and we also felt the boundaries would be best established by using maps. 7H .0309 lists the exceptions to use standards in all ocean hazard areas. The only change is to add the State Ports Inlet Management Areas to the exception for

development on lots platted prior to June 1, 1979. In 7H .0313 we define the use standards for the State Port AEC. To address beneficial use we stated that clean, beach-quality material dredged from navigational channels within the Stated Ports Inlet Management Areas shall not be removed permanently from the active nearshore, beach or inlet shoal system. This dredged material shall be disposed of on the ocean beach or shallow active nearshore area where it is environmentally acceptable and compatible with other uses of the beach. This language came straight from the Dredge and Fill Law. This language was previously proposed and rejected by NOAA for the purposes of federal consistency determinations. We sent the rule language out for review and almost immediately heard back from the State Port Authority and the Corps expressing their concerns regarding the beneficial use portion that was included. Specifically the Port is extremely concerned about the lack of flexibility in the rule in regards to utilizing the offshore dredged material disposal sites during times of bad weather or when dredging small volumes of material. There is a fear that if this rule were implemented it could hinder dredging efforts at these inlets and could result in the State or local government having to assume some of the additional costs for dredging of these two inlets, which is currently 100% federally funded. The State Ports also submitted comments requesting that the Corps' concerns be fully vetted before moving forward with AEC rule development. Comments on the draft language were also received from local governments. Carteret and Caswell recommended removing the language that references active nearshore beach or inlet shoal system and shallow active nearshore area as did the Village of Bald Head Island. Carteret and Caswell did recommend adding 'to the maximum extent practicable' for possible approval by NOAA. The next use standard requires that all development in the State Ports Inlet Management Areas be set back from the first line of stable natural vegetation or static vegetation line a distance equal to the setback required in the ocean hazard area, except for development exempted from the ocean setback rules in 7H .0309. Comments on behalf of Caswell and Carteret recommended that the language clearly except erosion control structures from setback requirements. The third use standard addresses imminently threatened structures and the language comes from the current definition of what we already considered imminently threatened and adds the provision for protecting dunes. The sandbag language used in the use standards is standard language used with other sandbag structures. It does allow sandbags constructed by a local government to remain in place for up to eight years and requires their removal within 30 days at the end of the allowable time period.

Justin McCorkle, Assistant District Counsel for the US Army Corps of Engineers Wilmington District, stated that he has been heavily involved in navigation projects for the past 12 years. I would like to start by saying that our district has a wonderful working relationship with DCM and have nothing but the deepest respect for the folks that we have dealt with. They have always been responsive to us. We want to continue the dialogue. We have been maintaining Wilmington Harbor since 1829. We have been maintaining the Morehead City Harbor since 1910. For more than a century that has been the central mission of the Wilmington District. Other things come and go but the maintenance of those two harbors is what keeps the Wilmington District going. Nationally they are not near the top of the ranks. In 2012, Wilmington was nationally number 64 and Morehead City was number 86 and typically dredging projects down that low don't get big increases in their budgets. There is a pot of money that has not been growing, but the share that those ports are going to get is not going to expand. While that is happening, dredging costs are going up and we are getting the same amount or less money to maintain these ports and every year the amount of dredging funds we receive goes down. We have had to take some actions in the past 10 years that we never would have thought of. In Morehead City right now we are having discussions with the State Port Pilots because they are on a draft restriction. It is a 42 foot project and they are somewhere in the low 30's in terms of the ships that can come in. The 40 foot ships cannot come

into Morehead City right now. We can't do anything about it until January. Please understand that most of this comes from the Corps wanting desperately to keep these ports open. We have been working hard with all of our partners the last couple of decades to work on the beneficial use issue. Right now, we are putting millions of cubic yards of sand on the beaches of Atlantic Beach, Bald Head Island, and Caswell Beach at 100% federal expense. If this rule amendment goes into effect with our plans as they exist right now, I don't think there is anyone in the room who will tell you that it will cost the same to do it. We can't put all the sand on beaches at federal expense and keep these ports open. Depending on how you define shallow, nearshore area and define it to mean something other than what we are using right now, then the cost to put it in the nearshore goes up too. If we are asked to put all the sand on the beaches every time we dredge then we are talking about doubling the costs, particularly in Morehead City. I don't think that the federal government is going to go along with doubling the costs. You can talk to your Representatives and see if they would be willing to do it. If not then we have no plan to maintain Morehead City Harbor. That concerns us. Asking us to do our dredging differently to benefit the beaches at the expense of the ports is a difficult decision. When the Dredge and Fill Law attempted to do it in 2005, NOAA did not approve it. We would expect that they would not approve it if asked again because we can't afford to do it this way. We are putting plenty of sand on all of the beaches right now. Atlantic Beach, Bald Head Island, and Caswell Beach are in great shape. We need to have some flexibility. We are doing everything we can. We appreciate the debate and appreciate the discussions, but this is more than a federal versus state issue. We need to make sure we have some more discussion and make the State Ports part of that decision because the cost of maintaining those ports helps to determine which ports get funded. You need to make sure it is a State position that you want to maintain these channels in this way because my guess is that what will have to happen is the State will have to come up with the funding mechanism.

Braxton Davis stated that this was presented to the CRC for a first time discussion and staff intends to continue the discussion. Greg Lewis stated he would go back and consult with the Towns and the Port at Morehead City. Frank Gorham said the current plan is to vote at the December meeting to approve the rule language for public hearing. Larry Baldwin stated the feds are concerned about the restraints imposed by the proposed rule language. The Chairman directed staff to have some meetings with the Corps and anyone else who would like an opportunity to provide comments on the draft language. Mike Lopazanski stated the focus of the discussion has been all about beneficial use parts of the language, but we haven't talked at all about the development standards within the Port AEC and he has concerns about whether this can be ready by the December meeting. We still need to talk about sandbag provisions, maps, talk with stakeholders, and look at what would encompass the AEC. Greg Lewis stated we need to do this correctly and if it doesn't happen by the next meeting then we don't need to rush it. Braxton Davis stated there would need to be a workshop for a broader stakeholder group. It will take time to organize something where we have engaged all stakeholders and not just the most obvious ones. The Chairman and DCM Director would put together a game plan for how we should proceed, send it out to the CRC and then decide if it would be on the December agenda.

Dredging Window Study Update

Suzanne Dorsey

Suzanne Dorsey stated until October 10, the conversation that has been going on about dredge windows has been mainly between shoreline protection folks and engineering firms. I thought it was important to bring in the state and federal agencies that will have some say over the dredge windows as well as the other stakeholders and advocacy groups. There are 22 volunteer groups that deal with sea turtles. The CRC Chair directed me to focus on common ground and I will add some

innovation to that. In terms of common ground I think with the dredge windows we have to look at the Jones Act. Issues arising under the Jones Act are not likely to be resolved. In our discussions we talked about developing a biological opinion that divides the State into two distinct areas. The northern part of our State is primarily impacted by nesting shorebirds. The southern part of our State is impacted by sea turtles. There may be some ability to write a biological opinion that separates mitigation tools and risks associated with these two different areas of our State. The next piece is to find a way for the Corps to start earlier. Then we would have all the agencies behind you and all the advocacy groups around you which would meet everyone's needs. We can do better than starting in January or February with a three months window. We should put high priority on working with the Corps on this. If we are looking for innovation then we are not going to find that from the agencies. If we want to deal with the Endangered Species Act, the problem is that each turtle makes a difference. Where can we add turtles and add to the population? What can we do that is innovative? We need new ideas and solutions to solve these difficult problems. Working with innovation like shoreline management takes dollars. This will only happen if dollars are put towards it. The savings that we talk about in opening up dredge windows can be converted to innovation. We need an understanding of the timeline and there is a lot more to do. We need to understand the policy and then we need direction on specific strategies with which to move forward.

Ken Willson stated that until the meeting a couple of weeks ago this effort was between coastal consultants and managers. There has been a lot of good exchange over the last two weeks. We have gotten some feedback from US Fish and Wildlife Service and have been promised some data from Coastal Federation and Audubon. If we can get that information as soon as possible then we will add it to what we have and be able to give the CRC our conclusions on what the data says. The conclusions will always be able to be interpreted. Shorebirds are a far more complicated issue than the turtles. There is room to expand the window on either side and have successful nest relocation programs, but it gets complicated when we bring shorebirds into it.

Braxton Davis stated the programmatic biological opinion applies to routine projects. DCM's approach to the critical habitat issue has been to sponsor the development of a programmatic biological assessment that the Corps can submit to the Fish and Wildlife Service to address all threatened and endangered species on the coast of North Carolina and the mitigation options and standards that are in place for sand placement on beaches. By doing so, we can address critical habitat all at once. It should be a positive step forward to addressing some of the critical habitat issues. It does not address the in-water dredging piece which is reviewed by the National Marine Fisheries Service. We have assembled an interagency state-federal review team to develop this assessment.

NC Coastal Reserve Program

Neal Andrew/Braxton Davis/Jim Leutze

Neal Andrew stated I asked that this topic be added to our agenda for several reasons. The first is that I have a personal interest in Masonboro Island. The Coastal Reserve program encompasses 10 areas along our coast line and all of these sites are important coastal resources. The State law that created the NC Coastal Reserve in 1989 includes a statement of purpose. This statement lists four principal purposes and one is to provide new information on coastal ecosystem processes to decision makers as a basis for the promotion of sound management of coastal resources. It seems to me that the CRC is the group of decision makers that this statement references. Therefore, I want to learn more about what role the CRC has in the Coastal Reserve, the type of information that can be provided to the CRC, and begin discussion on whether the CRC should have a larger oversight role. As an example, the Reserve program is in the very early stages of updating its five-year

management plan. Will the CRC be participants in this management plan update? I believe it should and mine is not an isolated opinion. NOAA who is the Coastal Reserve's major funder, has recently recommended that DCM and the Reserve work towards informing the CRC of its capabilities and supports the CRC's research needs. The second principal purpose is to accommodate traditional recreational activities as long as they do not disturb the Reserve environment. I readily admit one of my interests in the Reserve program is to protect public access and traditional recreational use at the Reserve sites. In the eight years that I have been following and/or been a member of the Masonboro Local Advisory Committee, the number one concern that has been raised with me is that recreational use appears to be getting watered down over the course of the five-year management plan updates. It has also been reported to me that there are similar concerns at other Reserve sites. Although I remain concerned about the changes that have been made over the years to the management plans that have marginalized and defused public recreation on the Reserves, I am encouraged by the very good working relationship between Masonboro.org and the Coastal Reserve staff. The main reason for this is the leadership of the Director of the Division of Coastal Management, Braxton Davis. In a 2012 meeting Braxton facilitated a discussion between Masonboro.org and the Reserve staff that led to all issues being put on the table and the two groups realizing that they have a lot of common ground. It is from this meeting that a partnership was formed to provide educational programs that increased the public's awareness of coastal ecosystems. In the past two years the Island Explorer Program has taken over 350 fifth graders to the island for educational field trips. Masonboro.org has provided the funding and resources to transport students to the island and the Reserve staff has provided the coastal education component. It would be great to think that with the CRC's assistance this could be developed into a statewide program.

Dr. Jim Leutze, Chancellor Emeritus of UNCW and past member of CRC, stated the CRC balances conservation and development. Some of these discussions began 10 years ago when the CRC first adopted a policy of education and how to utilize the Coastal Reserves. I have always been a strong advocate of balancing retaining the Reserves in their pristine manner as well as public access. If you look at New Hanover County there are not a lot of open beaches. There are very few places where the average citizen can go to a pristine beach and Masonboro Island is one of those. The issue has shifted over time. Initially the issue was the Fourth of July and everyone leaving their trash. Masonboro.org was formed, in part, to pick up the trash and talk to people. I strongly support the research aspect on Masonboro Island and for a period of years UNCW had a grant to study the human impact on the island. Before they came to final conclusions the funding was cut off. Their preliminary conclusions were that human activities were not having a negative impact on the island. A few years ago we had the discussion over the role of the CRC. We decided that we needed a balance between research, human activity and pristine areas but we were told that we had no role. I thought that was upside down and the CRC should be consulted about Reserve policy. I advocate cooperation. The CRC should be the public voice that looks for a balance between public access and maintaining the pristine environment.

Braxton Davis stated in South Carolina the Reserves were not part of the State's coastal program. The Reserve program was established under the same federal law, the Coastal Zone Management Act. Because the Reserve program is in the Division of Coastal Management we have the chance to bring the work and research of the Reserves to the CRC. I am proud of the model that North Carolina has for this and it is talked about at the national level a lot. I knew Rebecca Ellin when I was in South Carolina from her leadership at the national level as the President of the National Estuarine Research Reserve Association. She has done a lot of good things with the program. There are ten sites and six of those are State Reserves and four make up the National Estuarine Research

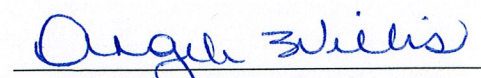
Reserve in North Carolina. The program is managed from four offices with 12 employees. Estuarine Research Reserves were designated in 1985. Masonboro Island was added to the National Estuarine Research Reserve in 1991. The Reserve rules were established in 1986, but CAMA created the Coastal Reserve Program because there was an interest in adding additional State sites to a system of Reserves beyond the NERRS components. That was done in 1989. The amendments to CAMA required that the system be carried out in coordination with the NERRS and administered by DENR. CAMA also directed the Department to consult with and seek the ongoing advice of the CRC. The Department may by rule define the areas to be included in this system and set standards for its use. The Reserves are also dedicated as State Nature Preserves which are under the Natural Heritage Program. This designation is for nine of the ten sites and there are additional use standards for these areas. The Departmental rules for the Coastal Reserve are found in 15A NCAC 70. The purposes of the Reserve are to protect the represented coastal ecosystems, to conduct relevant research, education, and to accommodate compatible traditional recreational use. We have local advisory committees (LACs) set up for each of the ten Reserves. This is required as part of the Departmental rules. the LACs are advisory groups that provide input and recommendations on program site activities. Research and monitoring is a major focus of the Reserves. As part of the national system there is a standard set of system-wide, long-term monitoring programs. A lot of the focus areas are on water quality, marsh monitoring, estuarine shoreline stabilization, and are part of a national system that NOAA established as Sentinel Sites for sea level rise monitoring. The Coastal Training Program is set up in the NERRS where we do science based training for local officials, realtors, and agency staff. There are also K-12 education programs that include field trips and teacher workshops. We have general public opportunities by offering summer field trips. We have stewardship staff that work directly on threatened and endangered species protection, non-native invasive species, signage, and outreach.

CAMA states that all lands and waters within the system shall be primarily used for research and education. Other public uses such as fishing, hunting, navigation and recreation shall be allowed to the extent consistent with these primary uses. Improvements and alterations to the land shall be limited to those consistent with these uses. We have free and open access to these sites year around. We have hunting allowed at two of the sites, 53 commercial vendors providing access to the sites. We have tried to restrict major, organized, planned events with excess noise. While there may be changes in the management plans over time, there have been no discussions of any public access restrictions. Our perception is that recreation has increased over time with coastal growth. The management plan update is required every five years and this plan will cover 2016-2021. The stakeholder engagement for that includes public meetings, local advisory committee meetings, non-local advisory committee partner surveys, education training needs assessments. There is also a formal comment period and public meetings. The LACs will meet to be briefed on the management plan updates and get their perspectives on all aspects of the program to get their input.

With no further business, the CRC adjourned.

Respectfully submitted,


Braxton Davis, Executive Secretary


Angela Willis, Recording Secretary