

MINUTES
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
NOVEMBER 12, 2009 MEETING
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on November 12, 2009 at 10:00 a.m. in the Ground Floor Hearing Room, Raleigh, North Carolina. The following persons were in attendance for all or part of the meeting:

COMMISSION MEMBERS

Mr. Donnie Brewer, Chair
Mr. Richard Vick
Mr. William "Buzz" Bryson
Mr. Joe Glass
Dr. Joseph Kleiss, Vice Chair
Dr. Bill Miller
Mr. Robert Weintraub
Mr. Tommy Esqueda
Ms. Robin Smith
Dr. Michael Voiland

OTHERS

Mr. Gray Hauser, State Sedimentation Specialist, Land Quality Section
Ms. Stephanie Lane, Administrative Secretary
Mr. Mell Nevils, Section Chief, Land Quality Section
Mr. Tracy Davis, Chief Engineer, Land Quality Section
Mr. Gowon Goode, Assistant State Sedimentation Specialist, Land Quality Section
Ms. Jana Vo, Sedimentation Education Specialist, Land Quality Section
Mr. Ted Sherrrod, NCDOT
Mr. David Harris, NCDOT
Mr. Phillip Reynolds, Assistant Attorney General
Ms. Jean Spooner, NCSU
Mr. John Payne, Assistant Attorney General
Mr. Cory Platt, Concept 2 Delivery
Ms. Lisa Martin, NC Homebuilders Assoc.
Mr. Rufus Allen, Assistant Attorney General
Mr. Kirk Stafford, Town of Cary

PRELIMINARY MATTERS

Mr. Brewer called the meeting to order and read Executive Order No. 1.

Mr. Brewer recused himself from Action Item A, Local Program Review pertaining to the City of Greenville delegated program.

Those in attendance introduced themselves.

Approval of August 20, 2009

Mr. Brewer called for approval of the minutes for the August 20, 2009 meeting. Mr. Glass noted a minor typographical error and then made a motion to waive the reading and approve the corrected minutes. Mr. Bryson seconded the motion, and it carried unanimously.

Reading of New Member's Economic Interest Statement into Record

Mr. Hauser read the Evaluations of the Statements of Economic Interest filed by Dr. Michael Voiland and Mr. Joseph Glass from the State Ethics Commission. There were no actual conflicts of interest or the potential for conflicts of interest. Dr. Voiland will fill the ex-officio role of the Director of the Water Resources Research Institute and Mr. Glass will fill the role of a professional engineer, nominated by the Professional Engineers of North Carolina, on the Commission. Copies of the statements are attached to the original minutes.

ACTION ITEMS

Local Program Reviews - Mr. Gowon Goode

Mr. Goode reported on the reviews of the Cities of Burlington, Greenville, Henderson, Wilson, Archdale and Rocky Mount and Chatham County delegated programs.

City of Burlington

Mr. Goode reported on the review of the City of Burlington delegated program. The City's local program was reviewed on August 6, 2009. Currently a staff of two provides one full-time equivalent for sediment and erosion control. There are currently 7 active projects. The staff has approved 40 plans and conducted 26 inspections last year. No Notices of Violation, Civil Penalties or Stop Work Orders were issued in the past year.

Three projects were evaluated. General documentation was satisfactory. The sedimentation and erosion control plans for each of the sites were adequate. Two sites were noncompliant with the Sedimentation Pollution Control Act.

A 4.0-acre commercial building site was noncompliant. It was observed that the flexible line on the skimmer should be extended to allow dewatering. Also, there was failed silt fence that needed replacing. The inlet protection was inadequate and ground cover needed to be established. The rip rap emergency spillway on the basin was not adequately installed per plans. The City said it would contact the contractor to get the site in compliance.

A 12.0-acre commercial site was found noncompliant. Construction had been going on for about two weeks prior to the review. Upon inspection there were several problems. Not all erosion control measures were properly installed per plan before other grading activities began. The City said it would issue a Notice of Violation and advised the

contractor onsite to cease all other grading activities until all erosion control measures were installed per plans.

James Geary of the City of Burlington reported to Land Quality on the status of these two sites on October 14, 2009. No additional inspection reports had been written since August 6, 2009. Corrective actions had been given verbally for the 12 acre site. Corrective actions had not been pursued for at the 4 acre site.

Land Quality staff is concerned that written inspection reports are not being prepared for sites with violations, inspection reports are not being done at least monthly, and that a Notice of Violation was not written for the 12 acre site.

Staff recommended continuing the review of the program until February 2010.

After considerable discussion, Ms. Smith made a motion that the program be put on probation until the next regularly scheduled Commission meeting on February 18, 2010. Mr. Bryson seconded the motion, and it carried unanimously.

City of Greenville

Mr. Brewer recused himself from any action pertaining to the City of Greenville Local Program review.

Mr. Goode reported on the review of the City of Greenville delegated program. The City's local program was reviewed on August 18, 2009. Currently a staff of two contributes two full-time equivalents to erosion control. There are currently 14 active projects. The staff has approved 17 plans in the last year. There were five disapprovals. The staff conducted approximately 350 inspections in 2008. No Civil Penalties were assessed and two Stop Work Orders have been issued. The City utilizes its ability to stop work to gain compliance on noncompliant sites. The City requires a preconstruction conference on all sites once the plan is approved before the financially responsible party and/or contractor can receive the certificate of plan approval and land disturbing permit.

Five projects were evaluated. The sedimentation and erosion control plans for each of the sites were adequate. The documentation was good for all files reviewed. The City keeps inspections reports in an electronic database. All sites were compliant with the local ordinance and SPCA but minor issues with maintenance and groundcover establishment were noted. There had been credible attempts at establishing groundcover on all the sites. Due to soil quality, seed bed preparation and weather, there was not a good stand of groundcover established. The local program is working with the contractors at each site to reseed, establish more groundcover and fix the maintenance issues.

Staff recommended continued delegation of the program. Mr. Bryson made a motion to continue delegation to the City of Greenville. Dr. Miller seconded the motion, and it carried unanimously.

City of Henderson

Mr. Goode reported on the review of the City of Henderson delegated program. The City's local program was reviewed on August 26, 2009. Currently a staff of two contributes less than one full time equivalent to erosion control. At the time of review, there were two active projects larger than one acre. The staff has approved six projects since last year. There were no disapprovals. The staff conducted 29 inspections last year. No Civil Penalties were assessed and no Stop Work Orders had been issued. The City uses its ability to delay issuing Certificates of Occupancy to gain compliance and requires projects to be bonded.

Two projects were evaluated. The sedimentation and erosion control plan for each of the sites was fair. Joe Dupree provided comments pertinent to crucial areas of plan review such as requiring better construction sequences to handle the installation of crossings and requiring current standard details of measures. All sites were in compliance with the local ordinance and the SPCA, but had issues with establishing groundcover.

Staff recommended continued delegation of the program with the recommendation that the local program work closely with the Raleigh Regional Office to obtain consistency with plan reviews. Dr. Miller made a motion to continue delegation. Dr. Kleiss seconded the motion, and it carried unanimously.

City of Wilson

Mr. Goode reported on the review of the City of Wilson delegated program. The City's local program was reviewed on September 15, 2009. Currently a staff of one is dedicated to sediment and erosion control. On January 13, 2009 the local program began to receive projects from the Raleigh Regional Office. There are currently 8 active projects. The staff has approved 9 projects and has conducted 271 inspections as of September 2009. Fifteen Notices of Violation have been issued with no Civil Penalties or Stop Work Orders issued. The City holds pre-construction meetings before the start of all projects. The City is working to implement training for contractors and engineers which will focus on new products, alternative methods, as well as presentations on the principles of sediment and erosion control.

Four projects were evaluated. General documentation was adequate. The sedimentation and erosion control plans for each of the sites were adequate. All sites were compliant with the Sedimentation Pollution Control Act and the Wilson ordinance as noted on previous inspection reports.

Staff recommended continued delegation of the program. Mr. Glass made a motion to continue delegation. Ms. Smith seconded the motion, and it carried unanimously.

City of Archdale

Mr. Goode reported on the review of the City of Archdale delegated program. The City's local program was reviewed on September 22, 2009. The City currently has a staff of

one dedicated to sediment and erosion control. On January 31, 2009 the Local Program began to receive projects from the Winston-Salem Regional Office. There were 11 active projects at the time of the review. The staff has approved 11 projects and has conducted 548 inspections as of September 2009. One Notice of Violation has been issued and no Civil Penalties or Stop Work Orders have been issued.

Since the transfer of Land Quality projects Archdale has not approved any plans over an acre. Four projects of interest to the Winston-Salem Regional Office were evaluated. All sites reviewed were noncompliant with the Sedimentation Pollution Control Act and the Local Ordinance as noted on previous inspection reports by the Local Program.

Diamonds Keep Subdivision is a project that was reviewed and approved by Land Quality. Since the site began construction it has received several Notices of Violations, and has been assessed a Civil Penalty by Land Quality. During inspection the site was found to be out of compliance. The site continues to go without groundcover and most of the sediment and erosion control measures have not been properly maintained to filter and retain sediment.

62 Properties is a project that was reviewed and approved by Land Quality. This site is inactive and has been noted as out of compliance. There were several bare areas that need groundcover. There was a breach in the silt fence along the rear of the property just north of the sewer line as well as a sediment basin that needed maintenance.

Greater High Point YMCA was reviewed and approved by Land Quality. This site has been actively graded and needs ground cover, the weir on the sediment basin needs repair, as well as silt fence and slope repair.

YMCA Soccer Field was out of compliance for failure to follow an approved plan, graded slopes and fills were too steep, unprotected slopes, and failure to maintain erosion control measures.

Although all of the sites evaluated were out of compliance, there had been a considerable amount of progress toward gaining compliance through the efforts of the Local Program. There was no visible sedimentation damage and the Local Program continues to monitor, inspect and enforce compliance with these sites and maintains communication with the Winston-Salem Regional Office on the status of these sites.

Staff recommended continued delegation of the program. Dr. Miller made a motion to continue delegation. Mr. Weintaub seconded the motion, and it carried unanimously.

Chatham County

Mr. Goode reported on the review of the Chatham County delegated program. The Chatham County program was reviewed on October 13, 2009. Currently a staff of two is dedicated to sediment and erosion control. There are currently 150 active projects. The staff has approved 32 projects and has conducted 572 inspections last year. Four Notices of Violations have been issued and one Civil Penalty assessed and no Stop Work Orders have been issued.

Six projects were evaluated. General documentation was good and the Local Program does a great job of keeping inspection reports in the files. The sedimentation and erosion control plans for each of the sites were adequate. Five of the six sites reviewed were compliant with the Sedimentation Pollution Control Act and the Local Ordinance was noted on previous inspection reports. .

A 27-acre residential site was under a Notice of Violation for failure to establish groundcover and failure to maintain erosion control measures. Local Program staff has been working with the site to obtain compliance; however there has been a restriction of funds from the financial institution which has halted further maintenance from the owner/developer. The Local Program discussed the owner/developer's attempts toward gaining compliance and stated that the site looks much better than it did three months ago.

Staff recommended continued delegation of the program. Ms. Smith made a motion to continue delegation. Mr. Esqueda seconded the motion, and it carried unanimously

City of Rock Mount

Mr. Goode reported on the review of the City of Rocky Mount's delegated program. The City's local program was reviewed on October 27, 2009. This was a follow-up to the July 15, 2009 review. Currently a staff of five contributes two full-time equivalents to erosion control. There are currently 5 active projects. The staff has approved 11 projects in the last year. The staff conducted approximately 1820 inspections in the past year. There were no Notices of Violation issued and no Civil Penalties had been assessed. No Stop Work Orders were issued.

Five projects were evaluated including three projects found out of compliance during July 15, 2009. One project from the prior review that was noncompliant had been closed out before this follow up review. The three previously reviewed sites were found to be compliant with the SPCA and the local ordinance. Two new projects were evaluated and were found to be in compliance with the SPCA and the local ordinance.

The sedimentation and erosion control plans for each of the additional sites reviewed were adequate. The documentation contained in each file for the projects that were reviewed was adequate.

The City took the recommendations to strengthen the program seriously and is conducting at least one formal written inspection a month, a formal inspection for all sites that are out of compliance until the sites come into compliance. Issues identified during the last review appear to have been adequately corrected. The non-compliant sites from the last review have been adequately stabilized and/or closed. The program administration is fairly new and made great adjustments to the program based on previous recommendations. The program has improved since the last inspection.

Staff recommended continued program delegation. Mr. Bryson made a motion to continue delegation. Dr. Miller seconded the motion, and it carried unanimously.

Recommendations of Subcommittee on Qualified Personnel - Mr. Mell Nevils and Mr. Robert Weintraub

Mr. Weintraub provided a summary of the findings of the Subcommittee on Qualified Personnel. Mr. Nevils presented a resolution supporting amending the Sedimentation Pollution Control Act to define Qualified Personnel for inspections and proposed changes to the SPCA resulting from the Subcommittee meetings. After considerable discussion regarding the wording of those changes, Dr. Kleiss made a motion to adopt the "Resolution Regarding Qualified Inspection Personnel for North Carolina Construction Activities for Erosion and Sedimentation Control" pending agreement by the Subcommittee members on the exact wording of the proposed changes to the Sediment Act. Mr. Bryson seconded the motion and it carried unanimously.

Adoption of Commission meeting dates for 2010 – Mr. Gray Hauser

Mr. Hauser presented the following proposed dates for the 2010 Sedimentation Control Commission meetings:

February 18, 2010 (Thursday)
May 20, 2010 – (Thursday)
August 19, 2010 – (Thursday)
November 30, 2010 – (Tuesday)

Dr. Voiland made a motion to approve the meeting dates for the 2010 Commission meetings. Mr. Glass seconded the motion, and it carried unanimously.

Nominations for Membership to the Technical Advisory Committee – Mr. Donnie Brewer

Mr. Brewer reported on the nominations for membership to the Sedimentation Control Commission Technical Advisory Committee. Dr. Voiland made a motion to adopt the nominations for the membership to the Technical Advisory Committee. Dr. Kleiss seconded the motion. After considerable discussion, Dr. Voiland amended his motion to approve the nominations for membership to the Technical Advisory Committee and to include a mechanism for adding more members to the Committee at a later date. Dr. Kleiss seconded the amended motion, and the motion carried unanimously.

INFORMATION ITEMS

Summary statistics for 2008-2009 Fiscal Year – Mr. Hauser summarized the numbers of plans approved, acres disturbed, inspections and enforcement actions and showed 10-year trends in these statistics. This information was provided in a series of graphs attached to the original minutes.

Update on Trout Buffer Waiver Requests - Mr. Hauser presented an update on the trout buffer waiver requests. A handout was given to the Commission to summarize the progress of these requests and is attached to the original minutes.

Enforcement Report- Mr. Payne gave a summary of the Attorney General's enforcement report. A copy of this report is attached to the original minutes.

Land Quality Section Active Sediment Cases Report - Mr. Goode reviewed the status of Civil Penalty Assessments. There were no questions. A copy of this report is attached to the original minutes

Status NCDOT Report - Mr. Goode presented the report on NCDOT's Erosion and Sedimentation Control Program with respect to the issuance of ICA's and approval of trout buffer waivers for maintenance projects. There were no questions. A copy of this report is attached to the original minutes.

Education Program Status Report – Ms. Vo presented a report on the past and current projects in the Sediment Education Program. A copy of this report is attached to the original minutes.

Sediment Program Status Report - Mr. Nevils provided a report on LQS's current plan approval, inspection, and enforcement activities statewide. A copy of this report is attached to the original minutes.

Land Quality Section Report - Mr. Nevils provided a report on the current number of vacancies in the Section and other LQS activities and issues. Mr. Nevils stated that Mr. Simons regrets he could not attend the meeting due to another commitment with the Geologist Licensing Board. Mr. Nevils thanked the staff and expressed his appreciation for the hard work of the SCC members on the Subcommittee on Qualified Personnel.

CONCLUSION

Remarks by the Director - none

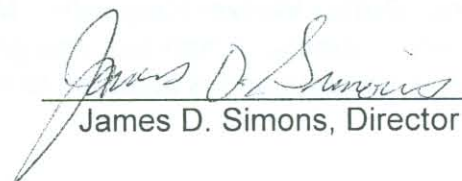
Remarks by the Commission Members – Ms. Smith thanked the staff for their hard work related to Local Program Reviews.

Remarks by the Chairman - Mr. Brewer expressed his approval of the active sediment case report presented by Mr. Goode. He stated he is impressed with the level of detail and pertinent information provided in the report. He also requested an agenda outlining the schedule of tasks for the Technical Advisory Committee and that the dates of the Technical Advisory Committee meetings be emailed to all Commission members. He also thanked the staff for their work and thanked his colleagues.

Adjournment

As there was no further business, Chairman Brewer adjourned the meeting.


Stephanie Lane, Recording Secretary


James D. Simons, Director