

**NC Coastal Resources Advisory Council
Sheraton
Atlantic Beach, NC
November 15-16, 2006
Meeting Summary**

Attendance

Bill Morrison (Chair)	Lee Padrick
Dara Royal (Vice Chair)	W. Burch Perry
Frank Alexander	Spencer Rogers
Deborah Anderson	Robert Shupe
Joseph Beck	Harry Simmons
Carlton Davenport	Lester Simpson
Eddy Davis	Steve Sizemore
Webb Fuller	Michael Street
Gary Greene	Penny Tysinger
Judy Hills	David Weaver
Al Hodge	Ginger Webster
Joe Lassiter	William Wescott
Travis Marshall	Traci White
Gary Mercer	David Stanley (for Don Yousey)
Wayne Mobley	John Wood (for Renee Gledhill-Early)
J. Michael Moore	
Charles Elam (CRC)	Lee Wynns (CRC)

Council Call to Order

Bill Morrison called the meeting to order with 31 members in attendance. The Council approved the September 2006 minutes without amendment, and approved an amended version of the June 2006 minutes.

Field Discussion: Vegetation Lines, Setbacks, Large Structures

Jeff Warren led a field discussion on the subject of natural and static vegetation lines, and building setbacks for large and small structures. The Council was able to gain a hands-on perspective of how DCM and local permit officers mark vegetation lines and measure building setbacks. Jeff used the Sheraton hotel as an example of a large structure that was built using the large structure setback from the natural vegetation line. The Council was able to compare, on the ground and on maps prepared by DCM, how static lines in Atlantic Beach and Pine Knoll Shores converge and affect building setbacks.

Sandbag Heights

Justin Whiteside, Planning Director for the town of Ocean Isle Beach, addressed the Council to propose an alternative method for measuring the height of approved sandbag structures. Mr. Whiteside explained that in Ocean Isle Beach there are portions of a roadway that, because of

erosion, are now level with the tops of installed sandbag structures, which themselves are occasionally overwashed at high tide. Mr. Whiteside also noted that the sandbags are alternately buried by sand and exposed as a result of tidal action. The combined result is that the roadway is occasionally overwashed and covered with sand. The town would like the ability to modify their sandbag structure to raise the top elevation one foot above the roadway. Mr. Whiteside said he hopes the CRC would reconsider the way sandbag heights are measured. Gary Mercer asked how far the affected area is from Shallotte Inlet. Mr. Whiteside said that the area is approximately 750 feet from the inlet. Mr. Mercer questioned what the harm would be in allowing shoreline hardening within a mile or two of inlets and providing public access in other areas. The Council did not take any action following this discussion.

EMC Action on MFC Stormwater Letter

Mike Lopazanski informed the Council that the EMC had recently discussed a letter from the MFC calling for the EMC to implement several measures to strengthen stormwater management rules in the coastal zone. Currently, only three coastal counties are covered by Phase II stormwater rules, and DWQ estimates it could be up to 10 years before most coastal towns would grow large enough to be covered by the rules. The EMC decided to amend its existing rules to fit Phase II requirements, and plans to consider draft rules in January 2007. Bill Morrison said that he would like to see the CRC adopt a resolution in support of stronger coastal stormwater rules. Mr. Morrison said that the Council would need to convince the CRC to act at this meeting otherwise the resolution would not get to the EMC until after the new rules were considered. Mr. Morrison asked whether the Council was prepared to act immediately on the draft resolution that was provided to them (attached). A motion was made and seconded to ask the CRC to adopt the resolution and forward it to the EMC. The Council decided to finalize the wording after hearing from DWQ's Tom Reeder.

DWQ Studies on Stormwater Program Effectiveness

DWQ's Tom Reeder said that stormwater runoff is the number one water quality problem in the state, and that pollution associated with stormwater runoff is a result of development. Industrial runoff is more tightly regulated than residential runoff. Shellfish waters are the most sensitive receptors in the state, which is why they are used as an important indicator of water quality. 1,157 acres of outstanding resource waters (ORW) have been closed to shellfishing since 1990. Wayne Mobley said that stormwater runoff has been implicated as the primary cause of contamination in more than 90 percent of the areas sampled.

Tom Reeder went through a presentation on the existing regulatory programs, and a recent DWQ study that evaluated the performance of the programs in a sample watershed in New Hanover County. The study revealed that existing regulatory programs do not appear to have been effective in protecting waters from pollution. Existing programs rely on low density development, which do not require engineered stormwater controls. DWQ did not find any evidence that the existing programs would become any more effective in the future. The study pointed to the need to modify existing programs and/or adopt new programs to deal with the problem.

NC Session Law 2006-246 requires the EMC to amend its rules to meet Phase II stormwater requirements. The EMC must begin implementation by July 2007 and DWQ was beginning to draft rules to implement the legislation.

DWQ has also developed its Universal Stormwater Management Program (USMP). The USMP is a voluntary program that, if adopted by a local government, would replace all other applicable state regulations. The program would become effective in early 2007.

CRC Stormwater Resolution to EMC

Following Tom Reeder's presentation, the Council discussed the final language of the resolution. The Council's NCDOT representatives indicated that they could not support a resolution that did not explicitly acknowledge that NCDOT's stormwater controls are not failing, and that NCDOT does not want to be subject to the new regulations instead of their existing agreements with DWQ. The Council voted to send the resolution to the CRC as discussed at the November meeting. ~~in its current form.~~

At the January 2007 CRAC meeting, the Council's NCDOT representatives elaborated their position by adding the following comments:

- DOT believes that there is a lack of compliance data to support reducing the impervious area to 10,000 square feet, and does not believe that DWQ has data to determine whether the one acre limit is working.
- DOT would encourage the CRC to support a recommendation to increase enforcement before reducing the impervious area, in order to see whether improved compliance might be a solution.
- DOT stated that none of their facilities were included in the DWQ study. DOT would like DWQ to study waters adjacent to properly designed, constructed and maintained stormwater facilities, including all BMPs (municipal, private and state operated).

Public Education through Local Governments

Whitney Jenkins, NC Coastal Reserves (NCCR), led a discussion around the Council's priority of public education on coastal issues, working through local governments. Whitney said that the NCCR administers a Coastal Training Program (CTP) to local governments to promote informed decision-making through science-based education. Whitney presented several outreach ideas, including offering education seminars at CRAC meetings, hosting a web-based clearinghouse, and advertising educational resources through CRAC county representatives, emails, and websites. Webb Fuller noted that while counties have representatives on the Council, most municipalities do not. Al Hodge responded that the CRAC will have to approach local governments and not wait for them to come to the Council for the information. Al suggested that the CRAC develop a standard presentation and take it on the road to local governments. Judy Hills said that the Councils of Governments have 205J money available that can help with the outreach costs. The CRAC would have to apply for grants. Eddy Davis stressed that the presentation has to focus on the relevant regulations, and what the local governments have to do and why; emphasize the practical requirements, not the science. Wayne Mobley suggested that the presentation should go beyond the regulations and educate local governments on the value of going beyond the minimum requirements. Mike Street recommended that the Council start with retrofitting for stormwater management as its first outreach topic.

Eddy Davis, Judy Hills and Penny Tysinger volunteered to serve on an Education & Outreach Subcommittee, to work with NCCR and DCM staff to devise an outreach plan for discussion at the January meeting.

Refinement of September Recommendations to CRC

30' Buffer

Bill Morrison asked how the Council wanted to approach the recommendation of expanding the 30' buffer. Mike Street responded that it is part and parcel of the stormwater discussion, and may be difficult to approach in isolation. Al Hodge asked what regulatory intent is behind the CRC rule. Mike Lopazanski said that the intent is not well codified. Several reasons were embraced during rule development, but the primary purpose since adoption has become water quality protection. Al asked whether the problem with the buffer is that it is not large enough or that it is poorly managed. Spencer replied that both are problems, plus DCM's lack of statutory authority to regulate

vegetation within the buffer. Wayne Mobley added that a 30' buffer is not sufficient unless it is supplemented with a properly maintained engineered system.

Al Hodge said he would like the Council to push the CRC to request more regulatory control over vegetation. Terry Moore said that DCM has asked the Attorney General's office whether DCM has the authority under CAMA to regulate marsh alteration as development. The Council decided to wait for the AG's response before considering further action.

Retrofitting

Gary Mercer said that as a developer he is doing work and research on the subject of retrofitting. Bill Hunt and his program at NCSU has had money available for retrofitting and has a lot of information about it on his website. The Council decided to work with Bill Hunt for help in creating and disseminating local government tools. Webb Fuller said that this would be a good local government initiative, as opposed to a handed down state regulation.

Tax Credits

Webb Fuller advised the Council not to pursue tax credits as they would require changes in state law. Webb said it would be more efficient to work on giving credits against permit fees instead. Judy Hills said the Council could also look into stormwater utility fees. The Council did not take any action.

Strategic Habitat Areas

Mike Street said that the Division of Marine Fisheries would be presenting its proposed SHA designation process to the Marine Fisheries Commission on November 30th, and he could report to the Council in January on what the MFC decided to do. The Council agreed to hear Mike's report in January before further discussion.

New Business/Old Business

With no further business the Council adjourned.

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**North Carolina Coastal Resources Commission Resolution
Supporting The Environmental Management Commission Effort To Incorporate
Phase II Stormwater Requirements In The Coastal Stormwater Program**

WHEREAS, North Carolina's coastal fisheries are among the most productive in the United States because of the wide variety of habitats available, the largest estuarine system of any single Atlantic coast state, and the location of North Carolina at the transition between mid-Atlantic and south Atlantic regions, and;

WHEREAS, approximately 60,000 acres of highly productive oyster harvest area is permanently closed to shellfish harvest, temporary shellfishing closures encompassing most of the southern coastal area of the state now restrict shellfish harvest on a regular basis, and permanent shellfishing closures are increasing and spreading into previously unaffected areas, and;

WHEREAS, bacterial contamination of shellfishing waters by stormwater runoff from land development near those waters has been identified as the primary cause for recent harvest closures in North Carolina's shellfishing waters, and;

WHEREAS, the N.C. Division of Water Quality has recently completed a comprehensive study on the effectiveness of its stormwater programs in protecting five small watersheds in New Hanover County, all with significant shellfish resources formerly available for harvest, and;

WHEREAS, the N.C. Division of Water Quality has determined that approximately 70 percent of all development on the coast has been low density in accordance with current coastal stormwater rules utilizing swales for treatment of stormwater runoff, and;

WHEREAS, the N.C. Division of Water Quality study found that swales can add pollution to stormwater runoff making the low density option of the current stormwater rules one of the primary causes for recent harvest closures of shellfish waters in North Carolina, and;

WHEREAS, the recently adopted Phase II Stormwater Rules and Universal Stormwater Management Program do not cover all coastal areas or shellfishing waters (surface waters rated SA and SB), depend at least in part, on voluntary participation, and are not designed to include rural areas potentially targeted for development, and;

WHEREAS, the Environmental Management Commission has directed the N.C. Division of Water Quality to develop draft language to incorporate Phase II Stormwater Program requirements into the coastal stormwater rules for the 17 coastal counties not currently part of the program.

THEREFORE, IT IS HEREBY RESOLVED THAT, the North Carolina Coastal Resources Commission (CRC) supports the Environmental Management Commission's (EMC) effort to amend the coastal stormwater rules to incorporate all new Phase II Stormwater requirements into the Coastal Stormwater Program. The CRC also requests that the EMC remove the distinction between Shellfish Resource Waters (SR) and Shellfish Waters (SA) and lower the requirement threshold to 10,000 square feet of land disturbance.

Dr. Courtney Hackney
Chair, N.C. Coastal Resources Commission

Date