

MINUTES
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
August 4, 2016
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on August 4, 2016 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

Ms. Robin K. Smith (Chair)
Mr. Jonathan Bivens
Ms. Natalie Berry
Ms. Heather Jacobs Deck
Ms. Karla Hammer Knotts
Dr. Susan White (Vice-Chair)
Mr. Kevin Martin
Dr. John Havlin

OTHERS

Mr. Toby Vinson, Chief, Program Operations, DEMLR
Mr. Brad Cole, Chief, Regional Operations, DEMLR
Ms. Stephanie Lane, Administrative Secretary, DEMLR
Ms. Evangelyn Lowery-Jacobs, Sed. Education Specialist, DEMLR
Ms. Karyn Pageau, Raleigh Regional Office, DEMLR
Mr. John Holley, Raleigh Regional Office Supervisor, DEMLR
Mr. Chris Rice, Town of Waxhaw
Mr. David Harris, NCDOT
Mr. Matthew Stuss, Neuse Riverkeeper
Ms. Holly Miller, Town of Wake Forest
Mr. Sean Maier, Attorney General's Office
Mr. Berry Jenkins, CAGC
Mr. Ryan Eves, Durham County
Mr. Jay Gibson, P.E., Durham County
Mr. Scott Godefroy, City of Greenville
Mr. Craig A. Midgett, City of Greenville

PRELIMINARY MATTERS

Ms. Smith called the meeting to order and read Executive Order No. 1.

Those in attendance introduced themselves.

Ms. Smith asked for a motion to approve the minutes from the May 5, 2016, meeting.

Ms. Deck made a motion to approve the minutes. Dr. Havlin seconded the motion, and it was approved unanimously.

ACTION ITEMS

Local Program Reviews – Ms. Karyn Pageau

Ms. Pageau gave a slideshow presentation on the review of the City of Greenville and Durham County delegated programs. A copy of the Local Program Report to the SCC is attached to the original minutes.

City of Greenville

On July 26, 2016, Richard Peed and Karyn Pageau conducted a review of the City of Greenville Local Program. Two positions would contribute 1.4 full time equivalents to the erosion control program, however these positions are currently vacant and the program is being managed by the City Engineer and another member of his staff. The city has 27 active projects. During the past year, the City has reviewed 33 plans, with 21 approvals and 12 disapprovals, and has conducted 17 inspections. The City has issued 6 notice of violations and no civil penalties have been assessed in the past 12 months. Three projects were reviewed and inspected in the field. Two projects were located in the Neuse and one in the Tar-Pamlico River Basin.

The City of Greenville Local Program has made changes since the last review including requiring phased erosion and sediment control plans, pre-construction meetings, and all the new files were well organized. The local program plans to make an offer to a candidate for the vacant CE1 position and is interviewing for the vacant CE2 position. DEMLR presented a training manual/book on behalf of the Sedimentation Control Commission to Scott Godefroy for an erosion and sediment control training webinar that was purchased for the program. Their plan is to provide this training to the new employees once hired. The local program should implement the following recommendations to improve the program:

- 1) Continue to check for self-inspection records on site.
- 2) Remember to implement all of the new NPDES requirements during the plan review process including concrete washout area and stockpile locations.
- 3) Document inspections made on each of approved sites. Projects should be inspected at least monthly. These inspection reports should be located in the project file folder.
- 4) Organize paperwork in files to adequately document the plan review process, approval letters/certificate of plan approvals, FRO forms, inspection reports, deeds, and landowner authorization letters (when applicable).

Staff recommends continued probation for the City of Greenville.

Ms. Smith asked if a follow-up inspection had been conducted on the Berkley Apartments project, which received a NOV on 1/27/16. Ms. Pageau indicated an inspection had been performed by the City, but there was no report in the file indicating the status of the NOV. Mr. Godefroy (City of Greenville) stated pictures were taken of issues with a skimmer installation during the follow-up inspection, however no inspection report was completed for the project file.

Ms. Smith asked if a revised plan has been submitted for the site. Mr. Godefroy stated a plan has not been submitted, but he offered to conduct a site meeting prior to a revised plan submittal.

Mr. Godefroy gave a slideshow presentation to the SCC discussing attempts to improve the City of Greenville delegated program. He added the CE-I position should be occupied by mid-September, and interviews for the CE-II position are scheduled for mid-August.

Mr. Bivens made a motion to continue delegation probationary status for 6 months pending staff review, and employment of additional staff to adequately implement the erosion and sedimentation control program. Ms. Deck seconded the motion, and it was approved unanimously.

Durham County

On July 28, 2016, Karyn Pageau conducted a review of the Durham County Local Program. Three staff positions contribute 2.5 full time equivalents to the erosion control program. The lead erosion control position was filled since our previous inspection. The County has 140 active projects. During the past year, the County has reviewed 148 plans, with 148 approvals (50 required additional revisions prior to approval), 0 disapprovals, and has conducted 1,573 inspections. The County issued 27 notices of violations, no stop work orders, and has assessed 1 civil penalty in the past 12 months. Three projects were reviewed and inspected in the field. Two sites were in the Jordan Lake Watershed and 1 site was in the Neuse Watershed.

Mr. Bivens asked why basins were not maintained on the Fendol Farms project. Ms. Pageau mentioned a lack of adequate staff as well as failure to follow the approved plan.

Ms. Deck asked if a NOV had been issued by DWR for the stream and buffer violations. Ms. Pageau indicated staff is working with the County on the issues, but more improvements are needed.

Staff recommends continued delegation pending a formal review within one year.

Mr. Eaves gave a slideshow presentation to the SCC discussing staffing updates and improvements to the Durham County enforcement process. He stated the FY17 budget has increased, which will allow for more training and certification opportunities in

erosion and sedimentation control. He also mentioned no extensions or new permits will be issued for Fendol Farms until the site has achieved compliance.

Dr. Havlin asked how offsite sediment will be prevented if no permit extension is allowed. Mr. Eaves indicated the surety bond could be forfeited to finish the Fendol Farms projects.

Dr. Havlin asked when actions will be taken to arrest the offsite sediment issues. Mr. Eaves indicated County staff would be meeting with contractors the following day to address site concerns. He added work has been done to clean up the stream impacts, and the County may seek injunctive relief for the site. Ms. Pageau stated a revised plan is needed to address the stream crossing issues. The contractor understands the need for erosion and sedimentation control and is working to install diversions/ditches to improve site conditions.

After much discussion, Ms. Knotts made a motion to continue delegation pending a formal review within one year. Dr. White seconded the motion, and it was approved unanimously.

INFORMATION ITEMS

Town of Waxhaw Request – Mr. Vinson presented a request from the Town of Waxhaw to the Sedimentation Control Commission for approval of an erosion and sedimentation control program delegation. Mr. Rice of the Town of Waxhaw addressed the SCC and provided an overview of the strategic implementation proposed by the Town. He added the draft ordinance would be presented at the August Town Board meeting, pending revisions required by the SCC and staff.

Ms. Smith stated the Town of Waxhaw will inherit projects from the Mooresville Regional Office (MRO) upon receiving delegation approval by the SCC. Mr. Rice indicated he is aware the transfer of projects will be necessary and plans to coordinate with the appropriate MRO inspector.

Legislative Update – Mr. Vinson provided an update to the SCC on amendments to the Sedimentation Pollution Control to include exemptions for mulch production. Staff has requested additional clarification from DEQ's Office of General Counsel.

Rules Review Process Update – Mr. Vinson stated a teleconference is planned for the Rules Review Stakeholder group during August. Meeting details are to be determined.

Sedimentation Control Commission Fee Schedule Study Group – Mr. Vinson indicated there has been no meetings of the Fee Schedule Study Group.

Enforcement Report – Mr. Vinson 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. Vinson presented the status of Civil Penalty Assessments. A copy of this report is attached to the original minutes.

NCDOT Report – Mr. Vinson presented a report on ICAs that have been issued since May 1, 2016. No Trout Buffer Waivers for Secondary Road Projects have been issued. A copy of this report is attached to the original minutes.

Education Program Status Report – Ms. Lowery-Jacobs 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. Vinson provided a report on the LQS current plan approval, inspection, and enforcement activities statewide.

Land Quality Section Report – Mr. Vinson provided a report on the current number of vacancies in the Section and other LQS activities and issues.

CONCLUSION


Remarks by the Director – In Director Davis' absence, Mr. Vinson thanked the staff for their efforts.

Remarks by the Commission – none

Remarks by the Chair – Ms. Smith thanked staff for their efforts.

Adjournment – Dr. White made a motion to adjourn. Mr. Bivens seconded the motion, and it was approved unanimously. As there was no further business, Ms. Smith adjourned the meeting at 12:30 pm.


Stephanie Lane, Recording Secretary


Tracy E. Davis, PE, Director,
Division of Energy, Mineral, and
Land Resources