

MINUTES  
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION  
FEBRUARY 7, 2019  
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING  
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on February 7, 2019 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**

Dr. Susan White (Chair)  
Mr. Jonathan Bivens  
Ms. Natalie Berry  
Mr. Michael Willis  
Ms. Heather Deck  
Mr. Mark Taylor (via phone)  
Mr. Hartwell Carson (via phone)  
Dr. Albert Rubin  
Ms. Karla Knotts

**OTHERS**

Ms. Julie Coco, State Sedimentation Engineer, DEMLR  
Mr. William (Toby) Vinson, Chief of Program Operations, DEMLR  
Ms. Rebecca Coppa, State Sedimentation Education Specialist, DEMLR  
Mr. Taylor Young, Assistant State Sedimentation Specialist, DEMLR  
Mr. Boyd DeVane, DEMLR  
Ms. Mary S. Crawley, Assistant Attorney General, Attorney General's Office  
Mr. Steven Webb, NC Homebuilders Association  
Mr. Dylan Reinhardt, DEMLR  
Mr. Zac Lentz, DEQ-Winston-Salem Regional Office  
Mr. Brandon Wise, DEQ-Winston-Salem Regional Office  
Mr. Kirk Stafford, Town of Cary  
Mr. Tom Gerow, Jr., NC Forest Service  
Mr. Charles Pender, Johnston County  
Ms. Chandra Farmer, Johnston County  
Ms. Robin Smith, NC League of Conservation Voters

**PRELIMINARY MATTERS**

Dr. White called the meeting to order.

Dr. White read Executive Order No. 1 regarding avoidance of conflict of interest.

Those in attendance introduced themselves. Dr. White announced any potential conflicts with the Commission members and reminded them to recuse themselves from any discussions related to those conflicts.

During the meeting, Dr. White made two changes to the agenda. Action Item "D" was added to include a request for additional language to be added to the Model Ordinance. The second change involved removal of Information Item "A" from the agenda.

Ms. Knotts requested the term for which Mr. Willis is to serve on the Commission. Dr. White read this term to start on 9/5/18 and end after 6/30/19.

Dr. White asked for a motion to approve the minutes from the November 11, 2018 with one modification. Ms. Deck moved to approve minutes from the November meeting with the modification. Mr. Bivens made a second; the minutes were approved unanimously. The minutes are to be signed with the modification.

## **ACTION ITEMS**

**Local Program Reviews, Recommendation and Vote on Delegation** – Mr. Taylor Young summarized the DEMLR staff's review of the Village of Whispering Pines' program (continuing delegation under review), the City of Newton's program (under probation) and Johnston County's program (continuing delegation under review). Staff recommended to allow both the Village and the County to continue their authority for delegation without further review, and to keep the City under probation for another six months with a report on their progress at the August 2019 quarterly meeting.

The motions were as follows:

*Village of Whispering Pines:* A motion was made by Dr. Rubin to release the program from review and allow for continued delegation. Ms. Berry made a second. The Commission voted to continue delegation of authority to the program. The vote was unanimous.

*City of Newton:* A motion was made by Ms. Deck to continue probation for the next six months. Ms. Berry made a second. The Commission voted to extend the probationary period with a report to be given at the August meeting. The vote was unanimous.

*Johnston County:* A motion was made by Ms. Berry to release the program from review and allow for continued delegation. Ms. Knotts made a second. The Commission voted to continue delegation of authority to the program. The vote was unanimous.

**Model Ordinance for Local Programs** – Dr. White proposed incorporating the last sentence from G.S. 113A-64(a)(1) into the model ordinance. A motion was made by Ms. Knotts to approve these changes to the model ordinance. Ms. Berry made a second. The motion passed.

**NC General Assembly, Program Evaluation Division (PED) Study on the Sedimentation Pollution Control Program** – Ms. Coco presented a slide show based on responses to the study. Ms. Deck inquired about draft legislation resulting from the study. Mr. Vinson summarized the PED findings, the bill draft legislation resulting from the report recommendations, and DEMLR responses. These written responses were appended to the report. Commission members discussed providing a formal response to the bill draft legislation that included support for a fee increase in addition to appropriations. Dr. Rubin suggested that the members contact their respective sponsoring agencies for additional support. Ms. Knotts requested time to review the bill language prior to making the case for supporting or not supporting amendments. Other members contributed to the conversation. Dr. White proposed that the Commission prepare and send a letter of response to the NC General Assembly (by Monday, February 11, 2019) in support for a fee increase with appropriations maintained and attach the 2014 fee resolution by the Commission along with the fee schedule study. Ms. Deck made a motion for Dr. White to prepare and deliver this response. Mr. Carson made a second. Some discussion ensued. The Commission voted by majority in favor of this proposal.

Dr. White also reiterated that the members discuss at a later time their support for the initial issues of 1) support for a fee increase with appropriated funds for the program, 2) support for maintaining an allowable 30-day statutory plan review period, 3) support for maintaining the program goal of having each Local Program reviewed bi-annually (as opposed to a legislative mandated frequency of every five years), 4) discouraging advanced coordination of inspections with the person(s) conducting the land-disturbing activity. Mr. Bivens mentioned that the discussion should also provide direction for the members to determine which of these issues and any others warrant their support. Ms. Coco noted that DEMLR's primary focus was on Parts IV (*Coordinating with the Regulated Community for the Performance of Site Inspections*) & V (*Reducing Dependence on Appropriations by Increasing Review Fees to Fully Support the Cost of Supporting the Erosion and Sedimentation Control Program Operations*) of the Bill Draft.

**Sedimentation Control Commission Fee Schedule Study** – Mr. Vinson provided an overview of the study for the newer members.

**Review of the Technical Advisory Committee** – Dr. White opened the discussion with the intent to provide background information regarding this committee, and to discuss the current and future technical advisory needs for fiscal year 2019-2020. Mr. Vinson stated that the name had to change because a committee with this name already exists. Mr. Taylor stated that the primary focus historically, had been on contributions and revisions to the Erosion and Sediment Control Planning & Design Manual, and to a guidance document for plan designers. The committee averaged ten to twelve engineers and geologists.

Ms. Robin Smith spoke from the podium. She mentioned that, in the past, committee members met weekly or monthly. Meetings were held to discuss rule development regarding Jordan Lake and the Neuse River, turbidity, comparisons between other state programs, and to discuss seed mixes in an effort to avoid invasive species. She stated that there were also soil scientists who served on the committee. The science-based committee presented options for the Commission to explore further. Ms. Smith encouraged reconstituting the Committee. Mr. Bivens commented that DEMLR staff were also members.

Ms. Deck inquired as to the process for nominating members to this advisory committee. She was directed to General Statute 113A-54(e) for the answer. Ms. Deck motioned to reconstitute the existing SCC Technical Advisory Committee as re-named to "Commission Technical Committee". Mr. Taylor made a second, but with an amendment to the motion to say *reactivate* the existing committee to the "Commission Technical Committee", as renamed. Mr. Bivens made a second. The vote was unanimous in favor of the motion with the amendment.

Discussion was had on how members of the Commission Technical Committee would be selected, and the status of existing members.

Ms. Smith spoke again from the floor and recommended that members of the committee be limited to no more than fifteen (15), to minimize the amount of resources needed from the DEMLR staff. She also recommended that candidates be selected from all of segments of the state of North Carolina, as opposed to just the Raleigh region.

Dr. White solicited the Commission members to suggest topics for the Commission Technical Committee to address and submit suggestions to the DEMLR staff. Staff agreed to compile suggestions for topics and present materials at the May 2019 meeting. Mr. Taylor suggested enabling staff to also provide recommendations. Dr. White will research how committees form and how they are dissolved, and if bylaws are needed.

## **INFORMATION ITEMS**

**Enforcement Report** – Ms. Coco presented a statewide summary of DEMLR enforcement proceedings.

**Land Quality Section Active Sediment Cases Report** – Ms. Coco summarized the status of active sediment cases against violators, whereby the penalty was assessed by the Division. Four cases were closed during the quarter.

**NCDOT Report** – Ms. Coco reported that one Immediate Corrective Action (ICA) and one inspection report lifting the ICA were generated within the quarter. There were no Trout Buffer Zone Waivers reported as being issued to the NCDOT within the last quarter.

A history of ICA reporting was presented to the Commission members. It was requested from a member and from the Chair that the NCDOT provide an accounting of their reporting history.

**Rules Review Process Update** – Mr. Boyd DeVane discussed his progress for meeting the November 2019 deadline. He is addressing comments received by staff from the Office of Administrative Hearings. He plans to hold a meeting with the Rules Review Workgroup in March, followed by a meeting with Ms. Deck, Mr. Carson, and Mr. Bivens in May.

**Education Program Status Report** – Ms. Coppa presented a summary of the recent work that has been accomplished in the education program.

She stated that the Designer's and Planner's Workshop was held December 4, 2018 in Raleigh and was a success and thanked Dr. John Havlin for providing the opening remarks.

**Sediment Program Status Report** – Ms. Coco reported on the number of plan approvals, inspections, and enforcement activities from each of the regional offices.

**Land Quality Section Report** – Mr. Vinson reported to the Commission about the existence of six statewide vacancies within the DEMLR.

## **CONCLUSION**

**Remarks by Chief of Program Operations** – Mr. Vinson thanked staff and in particular, Ms. Coco for her efforts in responding to the Program Evaluation Division staff's many requests for information over the past several months. He thanked the Assistant Sedimentation Specialist and the Sedimentation Education Specialist in their achievements. Mr. Vinson also thanked the Commission for their time and discernment in the DEMLR affairs.

**Remarks by Commission Members** – Ms. Knotts (Ethics Liaison) mentioned that there are consequences, including fines, for members who do not maintain their Status of Economic Interest filings each year. She has requested that these be completed by April 1, 2019.

Dr. White thanked the DEMLR staff for their work on the PED study. She also thanked the Commission members for their willingness to come prepared to bring topic ideas (for the reactivated Commission Technical Committee) to the next meeting.

**Adjournment** – Dr. White adjourned the meeting. The meeting was adjourned at approximately 1:32 PM.

---

Julie Coco, PE, State Sediment Engineer  
Division of Energy, Mineral, and Land  
Resources

---

William “Toby” Vinson, Jr., PE,  
Chief of Program Operations  
Division of Energy, Mineral, and Land  
Resources

---

Dr. Susan White, Chair  
Sedimentation Control Commission