

**ENVIRONMENTAL MANAGEMENT COMMISSION
WATER QUALITY COMMITTEE MEETING SUMMARY**

July 13, 2016

Archdale Building-Ground Floor Hearing Room

1:00 PM – 3:30 PM

BRIEF

The Water Quality Committee (WQC) of the Environmental Management Commission (EMC) at the July 13, 2016 meeting:

- approved the draft summary for the May 11, 2016 WQC meeting.
- approved to send the Stormwater Annual Report in accordance with §143-214.7(e) to the September 2016 EMC meeting.
- granted a Major Variance from the Neuse Riparian Area Protection Rule by Ella S. Yorks for Construction of a Single-Family Home and Rain Gardens on an Existing Lot at 1415-1417 Woodland Drive in Durham, NC.
- approved the 2015-2016 Coastal Habitat Protection Plan Annual Report.
- was made aware of Division of Water Resources' (DWR) Water Quality Special Orders of Consent and Civil Penalty Assessments Report and the 2016 Annual Report on Minor Modification Approvals to Approved Major Variances.
- was briefed on the poultry industry in the High Rock Lake watershed and this industry's connection with nutrient management strategy for the watershed.
- was briefed on an agriculture study conducted jointly by the North Carolina State University, the North Carolina Department of Agriculture & Consumer Services and the USDA-National Agriculture Statistics Service for the High Rock Lake watershed.

WQC Members in Attendance:

Ms. Julie Wilsey, (WQC Chair)
Mr. John D. Solomon, (WQC Vice Chair)
Dr. Lawrence W. Raymond
Mr. Thomas Craven
Mr. Kevin Martin
Dr. Albert Rubin
Mr. Steve Tedder

Others Present:

Mr. Steven Rowlan, EMC Chair
Mr. William "Bill" Puette, EMC
Mr. Charles Carter, EMC
Mr. Gerard Carroll, EMC
Mr. David Anderson, EMC
Ms. Jennie Hauser, Attorney General Office

None of the WQC members recused him or herself from making a decision on any of the action items on the July 13, 2016 WQC agenda.

I. Preliminary Matters

Mr. Tedder made a motion to approve the summary for the May 13, 2016 WQC meeting. WQC Vice Chair Solomon seconded the motion. The motion passed.

II. Agenda Items

1. Stormwater Annual Report to the Environmental Review Commission (ERC) in accordance with GS 143-214.7 (e)

The WQC was asked to approve the EMC's Stormwater Annual Report for submission to the ERC. There was no presentation on this item.

Discussion

The WQC Chair noted that there was a change [noted in red] made to the report yesterday (July 12, 2016) due to new legislation HB 1030. The change recognizes language requiring the review of nutrient sensitive water strategies by the Department, some divisions within in the department, outside agencies and stakeholders. Mr. Tedder asked whether the report is just requested for approval or will it go to the EMC at a later time before it goes to the ERC. Bradley Bennett with the Division of Energy, Mining, and Land Resources said the report will go to the full EMC at its September (2016) meeting. It was asked will the report be consolidated with other reports? Mr. Bennett acknowledged that a draft provision in a bill in the last session (2014-2015) called for the consolidation of the report with the sedimentation and erosion control report but it did not pass.

Motion

Mr. Tedder made a motion to approve the report to proceed to the full EMC at its next meeting. Dr. Raymond seconded the motion. The motion passed.

2. Request for a Major Variance from the Neuse Riparian Area Protection Rule by Ella S. Yorks for Construction of a Single-Family Home and Rain Gardens on an Existing Lot at 1415-1417 Woodland Drive in Durham, NC

Description

Jennifer Burdette with DWR presented to the WQC a request to grant a Major Variance from the Neuse Riparian Area Protection Rule to Ella S. Yorks for the construction of a proposed single-family home and rain gardens within Zone 1 and Zone 2 of the buffer on an existing lot. The lot is located at 1415-1417 Woodland Drive in Durham, NC. The applicant is proposing mitigation to offset the buffer impacts and treatment of stormwater runoff from the site. Based on the information submitted, DWR supports this request because all of the requirements in 15A NCAC 02B .0233 have been met.

Discussion

Mr. Solomon asked if the applicant had inquired about situating the proposed home over the sanitary sewer line because he noted from aerial photography that other homes in the neighborhood were built over the easement. Ms. Burdette stated that current zoning does not usually allow homes to be built over sanitary sewer lines and that the lot is located in an older neighborhood in which houses were constructed

before current zoning requirements limited construction within utility easements. Mr. Martin stated that, although he was not opposed to the request, he does not believe that trees proposed to be planted to enhance the buffer would survive. Mr. Tedder when property was purchased. Ms. Burdette said 1960.

Motion

Mr. Tedder made a motion that the WQC approve the major variance along with DWRs' recommendation for the mitigation and the stormwater management plan. The motion was [by another WQC member] seconded. The motion passed.

3. Request for Delegation of Major Variance Approval Authority of the Riparian Buffer Protection Rules for Single-Family Lots Platted and Recorded Prior to the Implementation Date of the Applicable Rule - (Action Item) (Jennifer Burdette, DWR) (ITEM 3 WAS REMOVED FROM THE AGENDA)

The Division of Water Resources requests delegation to the Department of Environmental Quality to approve major variances of the Riparian Buffer Protection Rules for single-family lots platted and recorded in the appropriate county Register of Deeds prior to the implementation date of the applicable rule. This delegation would be limited to lots that are 2 acres or less in size and requests in which the preliminary findings determine that all of the requirements for a major variance have been met pursuant to the applicable buffer protection rule. (Attachment enclosed: Memorandum for Request for Delegation of Major Variance Approvals for Single-Family Residences)

4. Request for Approval of 2015-2016 Coastal Habitat Protection Plan Annual Report

Description

The Fisheries Reform Act of 1997 requires an Annual Report be submitted to the Environmental Review Commission and the Joint Legislative Commission on Governmental Operations of the General Assembly regarding activities directly related to NC's Coastal Habitat Protection Plan (CHPP). The report is due on September 1 of each year. The CHPP Steering Committee, a committee with a membership of two commissioners from the EMC, CRC, and the MFC has approved this CHPP Annual Report for FY 2015-2016. Anne Deaton with the Division of Marine Fisheries provided brief statements on the priority issues discussed in the current CHPP annual report that will be the focus of the CHPP implementation plan for the next five years. These issues are oyster restoration, living shoreline, sedimentation, development of indicators for assessing habitat change and management actions.

Discussion

None

Motion

Dr. Raymond made a motion to approve the report. The motion was seconded by Dr. Rubin. The motion passed.

5. 2016 Annual Report on Minor Modification Approvals to Approved Major Variances

Description

At its March 13, 2013 meeting, the Water Quality Committee decided to delegate approval of minor modifications to approved major variances of the Riparian Buffer Protection Rules to the Director of the Division of Water Quality (now Division of Water Resources). The WQC instructed DWR to provide an annual report to the WQC. This report provides a summary for March 2013 – March 2016.

Discussion

None

Motion

Not Applicable

6. Water Quality Special Orders by Consent and Civil Penalty Assessments

There was no presentation on this item.

Discussion

A WQC member credited DWR staff and point source dischargers for making the improvements as currently reflected in the short list special orders of consents. The WQC Chair said that this item will be kept on the agenda (WQC) for future meetings.

Motion

Not Applicable

7. Pipes & Poultry: Balancing Point Source & Agricultural Nutrient Loading in the High Rock Lake Watershed

Description

Will Scott with the Yadkin Riverkeeper gave a presentation to the WQC on the scope of the poultry industry in the High Rock watershed and how this source category fits into the larger picture of the High Rock Nutrient Management Strategy.

Discussion

Dr. Rubin implored the utilization of a comprehensive phosphorus management program beyond soil test phosphorus levels to address phosphorus in the High Rock Lake watershed. Mr. Scott pointed out that the Department of Environmental Quality (DEQ) does not information for poultry facilities [location, number of birds, and what has happened to the waste] in the watershed to make a “clear” evaluation of phosphorus in the watershed. Dr. Rubin mentioned that other facilities covered under a general permit, not just animal agriculture, should be incorporated in the assessment. WQC Vice Chair Solomon asked is it farms or their disposal methods that we (DEQ) are trying to permit. Mr. Scott said there needs to be a systematic way of collecting and analyzing data on those farms that are deemed permitted before making decisions about any regulatory changes for those facilities. EMC Chair Rowlan asked Mr. Scott if Yadkin Riverkeeper had historical numbers that show elevations that can be linked to this problem to demonstrate causal relationships. Mr. Scott explained that the Yadkin Riverkeeper has data from 1990 to 2010 on the facility size. EMC Chair Rowlan asked if there was historical data on the concentration of phosphorus in the water. Mr. Scott said that the Yadkin Riverkeeper does not have such data. EMC Chair Rowlan implored Mr. Scott to use DEQ ambient phosphorus data along with agriculture data to assess the

impact of activities on phosphorus levels in the watershed. Mr. Scott added that sediment data would be useful in the assessment. Dr. Raymond asked his fellow WQC members what would the next step be if we believe that there is a significant gap in DEQ's information and it would require funding to overcome that gap. WQC Chair Wilsey mentioned that they (EMC) will get an overview of information on nutrient management studies in the proposed budget bill, which is awaiting to be signed by the governor.

Motion

Not Applicable

8. High Rock Lake Watershed: Agricultural Study

Description

Deanna Osmond with North Carolina State University's Department of Soil Science gave a summary to the WQC on an agricultural survey of over 1500 farmers in the High Rock Watershed conducted by NC State University and NC Department of Agriculture and Consumer Services. The study identified the use of conservation and agricultural practices in this watershed. The conclusions of the study were that the land use in the watershed is mostly low intensity agriculture, cropping systems (pasture, hay and conservation tillage) lead to low erosion, buffers are frequent, most of fields are under fertilized with nitrogen, farmers use soil testing (the average county soil test phosphorus is high to very high), and the tools to model nitrogen suggests low nitrogen and phosphorus losses from agricultural fields.

Discussion

EMC Vice Chair Mr. Martin asked what are the percentages of agricultural lands in the watershed that receives biosolids from a municipal wastewater treatment plant. Dr. Osmond said only two fields in the watershed were found receiving biosolids from a wastewater treatment plant. Mr. Tedder noted that the counties in the watershed are diverse based on topography and asked Dr. Osmond to comment on any differences in information based on slope or topography in Wilkes county versus Yadkin. Dr. Osmond said we probably have that data but nothing was done with it. Mr. Tedder asked whether buffers are doing a good job in the area. Dr. Osmond said yes and that data from recent research on riparian buffers for the Neuse River basin suggests that a 50 feet buffer is a reasonable width that minimizes pollutant losses into the stream while minimizing land going out of production. Dr. Rubin asked Dr. Osmond to explain the meaning of her statements, made during this presentation, that "multiple studies across the United States that show that anywhere from 70 to 80% of sediment being delivered from agricultural watersheds is coming from stream banks or sediments sitting in the streams themselves." She said multiple scientists are showing that the sediment in the water is coming from stream erosion. Mr. Solomon commented that he would have liked the study to include different statistical information, specifically, mean, median, and outliers. Mr. Tedder asked Dr. Osmond to comment on the effectiveness or differences in riparian buffers versus vegetative buffers with respect to soil loss or phosphorus reduction. She said that there are lots of data that show that grass buffers do not hold stream banks. (She mentioned a paper out of Kansas that shows a 3 feet movement in one storm where was grass and nothing where there were trees.) When the state buffer rule was put in place, riparian buffer researchers including those from NC State established the thirty- foot tree buffer to hold the stream in place and provide habitat for the stream and the twenty-foot vegetative buffer to slow down the sediment and drop out the phosphorus.

Motion

Not Applicable

This summary was prepared by Adriene Weaver with assistance from presenters: Jennifer Burdette, Bradley Bennett, Anne Deaton, Will Scott, and Deanna Osmond.