

NORTH CAROLINA SOIL & WATER CONSERVATION COMMISSION MEETING MINUTES November 10, 2010

Archdale Building
 Ground Floor Hearing Room
 512 N. Salisbury Street
 Raleigh, N.C.

Commission Members	Others Present	
Manly West	Pat Harris	Chris Hogan
Richard Smith	David Williams	Julie Henshaw
Craig Frazier	Shelly Baird	Kelly Ibrahim
Vicky Porter	Don Barker	Ralston James Jr.
Bobby Stanley	Steve Bennett	David Knight
James Ferguson	Jamie Cook	Chester Lowder
William Pickett, Jr.	Vernon Cox	Michelle Lovejoy
	Cindy Draughon	Ken Parks
	Bill Dunlap	Mitch Peele
	Davis Ferguson	Michelle Raquet
Commission Counsel	Dylan Ferguson	Kenny Ray
Jennie Hauser	Lisa Fine	Richard Shaw
	Dick Fowler	Michael Stiles
	Matt Flint	Sandra Weitzel
	Dewitt Hardee	Natalie Woolard

Chairman Manly West called the meeting to order at 9:02 a.m. The pledge of allegiance was recited and a moment of silence was observed in honor of Veteran's Day. Chairman West charged the commission members to declare any conflict of interest or appearance of conflict of interest that may exist for agenda items to be considered by the commission, as mandated by the State Ethics Act. Commissioner Vicky Porter recused herself from discussion on item 9B. Chairman West then read the following excerpts from the State Ethics Commission's evaluation regarding the correction on Commissioner William Craig Frazier's statement of economic interest:

Mr. William Craig Frazier: *"Mr. Frazier will fill the role of First Vice President on the Commission. He owns a dairy farm, which may be subject to commission rules and regulations. He further indicates that his farm is a recipient of an Ag Cost Share Contract administered by the Commission. Thus, he has the potential for a conflict of interest. Mr. Frazier must exercise appropriate caution in the performance of his public duties should issues involving his farm come before the Commission. This would include recusing himself to the extent that his interests would influence or could reasonably appear to influence his actions."*

Chairman West stated that the above "Statements of Economic Interest" would be kept on file as record.

APPROVAL OF AGENDA: The meeting agenda was approved. Commissioner William Pickett made a motion to approve the agenda. The motion was seconded by Commissioner Bobby Stanley. Motion carried.

APPROVAL OF MINUTES: The minutes of the Commission Meeting held on September 15, 2010 were presented and approved. A motion to approve the minutes was made by Commissioner Richard Smith and seconded by Commissioner Craig Frazier. Motion carried.

Board members and staff present introduced themselves.

INFORMATIONAL ITEMS

4. Division Report: Mrs. Pat Harris, Division Director for Soil and Water Conservation, introduced Mr. David Knight, DENR Assistant Secretary for Natural Resources. Mr. Knight shared information on the Executive Order No. 70 which included the "Rules Modification and Improvement Program". The Executive Order was signed by Governor Beverly Perdue and attested by the Secretary of State, Elaine Marshall on October 21, 2010. Mr. Knight stated that this order impacts and effects all Commission's and Board. He read the following excerpt from the handout as follows:

- Whereas Rules (Page 1 of the handout)
- Section 1 – Scope of Executive Order
- Section 2 – Statement of Regulatory Principles
- Section 3 – Review of Existing Rules
- Section 4 – Review of New Rules
- Section 5 – Effect and Duration

Mr. Knight noted that a "one page Certification Template" will be given to the chair of each Commission.

Mrs. Pat Harris began her division report by reading the division's mission statement: *"To foster voluntary, incentive driven management of soil, water & related natural resources for the benefit of the environment, economy & all citizens."* She pointed out the division's unique partnership with the State Soil & Water Conservation Commission and the ninety-six Conservation Districts sets the division apart from the other DENR divisions. A list of positions, vacancies, and job postings were shared. Comparisons were made with the total positions for FY 2010 to the FY 2007 positions. A decline in number of positions was noted.

Mrs. Harris announced that Donnarie Hales was hired as the new Area 5 Coordinator. She joined the division from Pitt Soil & Water Conservation District where she was the Resource Conservation Specialist for three and a half years. Mrs. Harris informed the Commission that one of her duties will be working directly with the Commission.

Division Budget Update: Mrs. Harris noted the following:

- 1% of FY 2010-2011 Matching Funds were reverted
- As directed, the division identified 5%, 10%, & 15% permanent reductions to its FY 2011-2013 budget
- She noted the following the division's FY 2010-2011 State appropriation = \$11,864,100 and had declined from its FY 2007-2008 State appropriation = \$15,191,103

Division's FY 2009-2010 Annual Report: Mrs. Harris highlighted the following strategic goals and related accomplishments in projects such as the Lagoon Conversion Program and the Agricultural Water Resources Assistance Program : Sustaining Water for the Future; Conserving Natural Areas & Sustaining Working Lands; Growing a Green Economy; and Organizational Effectiveness

2010 District Supervisor Elections & Appointments: A handout was provided giving details of the elections. The following items were discussed:

- The 2010 Election Report
- Supervisor appointments
- GS 139 – if a district fails to submit an appointment or re-appointment recommendation to the Commission by the first Monday in December, the seat becomes vacant. Several districts caught off guard.
- Mrs. Harris recommended the Commission call a special meeting prior to/on December 6, 2010 for the sole purpose of supervisor re-appointments

Mrs. Harris concluded her presentation and welcomed comments and suggestions from Commission members.

Comments & Suggestions from Commission Members:

- ❖ Chairman West announced a telephone conference meeting on December 6 2010 at 8:30 a.m. for the “2010 District Supervisor Elections & Appointments” that were not received in time for this meeting.

5. Association Report: Commissioner James Ferguson, President, NCASWCD and Mr. Dick Fowler, Executive Director presented the following:

Annual Meeting is scheduled for January 9-11, 2011 at the Grove Park Inn in Asheville. It was noted that as of this date 114 people have registered. On line registration is listed on the portal and the cutoff date for early registration is December 1, 2010. Meeting highlights were discussed as follows: (1) Conservation Education to Working Lands, (2) New Supervisor Orientation, (3) 2011 Executive Committee Orientation, and (4) Budget and Fiscal Responsibility.

Mr. Ferguson informed the Commission that Dr. Dennis Scanlin from Appalachian State University will present the second speech in the Milton Heath Lecture Series. The presentation will include alternative energy, particularly as it relates to wind.

It was noted that Senate Majority Leader Martin Nesbit, Jr. is confirmed for the Legislative Luncheon on Tuesday at noon. Mr. Maxwell Taylor, a singer-impressionist from Atlanta, Georgia is scheduled for Tuesday evening’s entertainment.

In conclusion, Mr. Ferguson noted that there were three candidates for the mountain region Commission Seat and three candidates for the Association 2nd Vice President seat.

Candidates for the Commission Seat are as follows:

- Area 8 - Jeff Goforth (Cabarrus District),
- Area 2 - Claude Shew (Wilkes District), and
- Area 1 - Bill Yarborough (Haywood District)

Candidates for the 2nd Vice President Seat are as follows:

- Area 1 – James Coman (Buncombe District)
- Area 2 – Jo Linville (Yadkin District)
- Area 8 – Tommy Houser (Lincoln District)

Mr. Dick Fowler presented the following:

School of Government Training: February 15-16, 2011 is scheduled for training. Richard Whisnant, presenter, will discuss the training opportunity during the New Supervisor Orientation at the Annual Meeting.

2010 Fall Area Meetings: Five of the eight Fall Area Meetings have been held; Areas 4, 5, and 7 are scheduled next week. Attendance by district supervisors has averaged 45% (ranging from a low of 38% to a high of 52%).

2011 Conservation Farm Family State Celebration: Everett Farms (Transylvania County) is the winner. The outstanding farm is owned by George and Carrie Lenze and is a pasture raised Angus Beef Cow operation, selling to local markets in Asheville, Brevard, Hendersonville, and Saluda. The judges were Dewitt Hardee (NCDACS), JB Martin (NRCS), Tom Ellis (NC State Grange), Bruce Whitfield (NCASWCD), and Chester Lowder (Farm Bureau). The date for the celebration has not been confirmed. It was noted that the winners Everett Farm and the Ronald Perry Farm (piedmont region) in Wake County will be featured at the upcoming Annual Meeting.

Association Web Page: The Association web page is being updated. James Ferguson, President of the Association has appointed a committee to oversee this process with co-chair Bill Cole, Wake SWCD supervisor, and co-chair Pamela Stroupe, Lincoln SWCD supervisor and chair of the Education Committee, to provide leadership to the committee. It was noted that the committee has not been set up, but the co-chairs have had a conference call to discuss how to get started with this project.

Leadership Initiative: The 2009-2010 Leadership Initiative program was a success and has come to a conclusion. The Association has received positive comments from the 2009-2010 participants to continue with this program. Future funding will be a challenge because the Altria Corp. will not be funding the 2011 program. The surplus money from the FY 2009-2010 budget (approximately \$16,000) is available to partially fund the 2011 program. Brochures will be distributed at the Annual Meeting regarding the 2011 Leadership Initiative program to promote participation. Mr. Fowler concluded his presentation and welcomed comments and suggestions from Commission members.

Comments & Suggestions from Commission Members:

- ❖ Chairman West suggested that alternative program dates and sites be considered due to the elections and flu season, or the program should be designed with some scheduling flexibility so more can participate.
- ❖ Mr. Fowler responded that the Association would like to see the participation in the first session and then consider a second session. It was noted that there was a possibility of considering a new site for the Leadership Initiative program other than the School of Government to make it more accessible to supervisors in the western part of the State. Mr. Fowler concluded that the second session was not scheduled at this time but he will look into it as the School of Government does the training and he oversees the coordination. He added that 80% of the staff at the School of Government does the training.

6. NRCS Report: Mr. JB Martin, State Conservationist from the US Department of Agriculture Natural Resources Conservation Service (NRCS), shared the following information:

- NRCS will be holding two meetings for agricultural and conservation groups on December 9, 2010 in the Resource Development Conference Room # 267 located at 4405 Bland Road in Raleigh. The focus of the meeting will be to evaluate this past year's programs and seek suggestions for improvement.

- Based on resource concerns in North Carolina, the Conservation Activity Plans requirements, and technical criteria for the CAP's, the following recommendations were made:
 - Comprehensive Nutrient Management Plan (CMNP)
 - Nutrient Management Plan
 - Forest Management Plan
 - Grazing Management Plan
 - Integrated Pest Management (IPM)
 - Irrigation Water Management
 - Agricultural Energy Management Plan (Headquarters)
 - Drainage Water Management
 - Conservation Plan Supporting Organic Transition
 - Integrated Pest Management Herbicide Resistance Weed Conservation Plan

Mr. Martin concluded that the main goal was to get the public, private, government, state, conservationist and technical groups to meet and discuss future plans for conservation, the environment, and farming in the State of North Carolina. He added that the group will need to strategically prioritize and focus on the future goals and issues.

- It was noted that NRCS is exploring opportunities to expand ways to increase staffing with the partnership. Budget restrictions were discussed and NRCS was exploring alternative ways to be creative in their funding and providing their services.

Mr. Martin concluded his presentation and welcomed comments and suggestions from Commission members.

Comments & Suggestions from Commission Members:

- Commissioner James Ferguson thanked Mr. Martin for his continued support.
- Mr. Martin stated that NRCS approved their District Conservationist to attend the 2011 NCASWCD annual meeting in January and pledged his ongoing support.

7. Neuse & Tar-Pamlico Annual Reports: Mrs. Kelly Ibrahim, Neuse/Tar-Pamlico Basin Coordinator presented the following:

- Rule Overview: Neuse River Agricultural Rule was effective August 1998; Tar-Pamlico Agricultural Rule was effective September 2001.
- Goal: Neuse, minimum 30% Nitrogen reduction from average annual baseline (1991-1995) before August 2003; Tar Pamlico, minimum 30% Nitrogen reduction from average annual baseline (1991) by September 2006 along with a no increase in phosphorus.
- Implementation: Collective strategies implemented through establishment of 2 Basin Oversight Committees (BOCs) and 31 Local Advisory Committees (LACs).
- Neuse estimated Nitrogen Loss Reductions: Total for 2008 Reported Nitrogen Loss Reductions was 41%; Total for 2009 Reported Nitrogen Loss Reductions was 44%. A breakdown for each counties reduction was provided.
- Reduction losses were achieved through BMP implementation, Fertilization management, Cropping shift, Cropland converted to grass/trees, Cropland lost to idle land, and Cropland lost to development. Breakdown on totals were discussed for 2006 (45%), 2007 (39%), 2008 (41%), and 2009 (44%).
- Tar-Pam Estimated Nitrogen Loss Reductions: 2008 reported Nitrogen Loss 50%, 2009 reported Nitrogen Loss 50%. A breakdown on individual counties reductions were provided in the handout.
- It was noted that the Tar-Pamlico River Basin N Loss reductions were achieved through the same as previously discussed.

- Phosphorus Loss Tracking (Tar-Pamlico River Basin): Rule – No net increase in Phosphorus loss from 1991 baseline; Method to qualitatively track Phosphorus approved in 2005; 2009 found no net increase in Phosphorus loss risk; BOC will continue to monitor trends; PTAC Committee plans to meet to discuss sources for animal data.
- Falls Lake Neuse Water Strategy was discussed. NC DWQ is developing a comprehensive NSW strategy (Person, Granville, Orange, Durham, Wake, & Franklin Counties). Reductions needed from 2006 baseline (40% Nitrogen, 77% Phosphorus). Agriculture will have a two-staged approach. A map was shown with color grid to better understand.
- Falls Lake NSW Strategy: Stage 1:- Achieved by 2021 (20% Nitrogen Reduction, and 40% Phosphorus Reduction). Stage 2:- Achieved by 2036 (40% Nitrogen Reduction, 77% Phosphorus Reduction). It was stated that this strategy may require buffering all cropland and fencing out all livestock if stage 1 goals were not met.
- Funding for Technicians: 6 Technicians located in Durham, Franklin, Wilson, Pitt, Wayne, & Hyde. EPA 319 grant funds were obtained to secure funding for technicians through June 2012. Further funding through EPA 319 and other sources Winter/Spring 2011 to extend the technicians salaries.
- Future Steps: (1) Encourage BMP implementation, (2) Technician & LAC meetings will be held in December 2010 through February 2011, (3) Continue to help develop and implement Falls Lake NSW Strategy (January 2011), (4) Targeted outreach for: Falls Lake NSW Strategy, Management of water control structures, Counties not currently meeting the goal.

Mrs. Ibrahim acknowledged and thanked all who participated in helping with this report. She concluded her presentation and welcomed comments and suggestions from Commission members.

Comments & Suggestions from Commission Members:

- Commission members asked for clarification on target dates for stage 1 and 2.
- Mrs. Ibrahim responded that the stage 1 will be achieved by 2021 and that the automatic clause will move to stage 2. Stage 2 strategy may require buffering and fencing. If the goals were not met in stage 1, achievement date for stage 2 is set for 2036.

The Commission took a short recess at 10:02 a.m. and reconvened at 10:10 a.m.

V. Action Items

8. Consent Agenda

Commissioner Craig Frazier made a motion to approve the consent agenda. The motion was seconded by Commissioner Richard Smith, and the motion passed unanimously.

The following items were approved as part of the consent agenda:

- A. Nomination of Supervisors for Reappointment
A spreadsheet was provided with the list of names. All were approved with the exception of two from Gates and Vance districts until additional documentation could be received. It was stated that they did not meet the 2/3 attendance requirement. *(These were moved to item 9A of the agenda.)*
- B. Nomination of Supervisors for Appointment:
 - Mark Powell, Albemarle SWCD, was appointed to fill the expired term of Curtis Byrum from Chowan County.
 - Terri Kirby Hathaway, Dare SWCD, was appointed to fill the expired term of Ann Coughlin.

- James Michael Mauney, Sr., Gaston SWCD was appointed to fill the expired term of Roger Hurst.
 - Tami Olive Thompson, Johnston SWCD, was appointed to fill the expired term of James Langley.
 - James L. Lamb, Sampson SWCD, was appointed to fill the expired term of James Hall.
 - John E. Walters, New River SWCD, was appointed to fill the expired term of JoAnne Poe.
- C. Approval of NCACSP supervisor contracts were as follows:
- Contract 43-11-972-02; C.H. Johnson; Harnett County; sediment removal from pond; \$5,500
 - Contract 53-11-03-02; Tony Ragon; Lee County; Stock trail; \$5,532
 - Contract 73-11-11-09; John Gray; Person County; Grassed waterways & field borders; \$2,940
 - Contract 73-11-14-07; John Gray; Person County; Grassed waterway & field borders; \$811
 - Contract 93-11-12-13; Herman Collier; Warren County; Sod-based rotation (17 and 41 months); \$1,538
 - Contract 93-11-13-13; David Hight; Warren County; Grassed waterways, field borders & diversion; \$ 4,153

9. Supervisor Reappointments & Commission Member Contract:

A. Nomination for Reappointment for Supervisor not Meeting 2/3/Attendance Policy

- Dennis Riddick, Gates SWCD
- Wilton Lee Short, Jr. Vance County

Commissioner Craig Frazier made a motion not to approve the nomination due to lack of supporting documentation for their absence. The motion was seconded by Commissioner James Ferguson. Motion carried.

B. Approval of NCACSP Supervisor/Commission Member contracts

- Contract 13-11-03-16; Porter Farms, Inc.; Cabarrus County; Cropland conversion to grass; \$2,925

It was noted that Commissioner Vicky Porter recused herself from discussion on this item at the beginning of the meeting. Commissioner Richard Smith made a motion to approve this item. The motion was seconded by Commissioner Bobby Stanley. Motion carried. Commissioner Porter recused herself from voting.

Comments & Suggestions from Commission Members:

- ❖ Chairman West noted that he has appointed an Adhoc Committee. This Committee will include Commissioner Smith, Commissioner Porter, and Commissioner Frazier, and chaired by David Williams, Division Deputy Director. They will evaluate and make recommendations for the procedures regarding supervisor removal from district boards. The Adhoc Committee will report back to the Commission at the January 2011 meeting.

10. ACSP Reallocation Request:

- A. Supplemental Allocation of Drought Grant Funds: Districts were requested to respond by the close of October 29, 2010. A total of 8 districts responded. Funds Available were as follows: Drought Grant (DG) \$76,657; Drought Appropriation (DA) \$11, 797; Drought Earmark (DE) \$8,112; Total funds available \$96,566. The Drought Grant (DG) Funds will expire in April 2011, and the deadline date for installation and payment for all BMIS funded through the

Drought Grant (DG) Funds is March 31, 2011. It was stated that the division will receive cancellation of projects or information that the projects have been completed and the districts no longer require the funds. There was a suggestion made that the division be granted permission/approval to allocate these funds on a first come first served basis for future drought response requests. This will help elevate the supplement cost for contracts that are still unfunded within those counties.

Comments & Suggestions from Commission Members:

- ❖ Commission members requested clarification on the distribution of funds
- ❖ Mrs. Raquet responded that the funds received due to cancellation or completion would be available for reallocation and allocated on a case-by-case basis based on the requests received by the Division. The Commission would be giving Division staff the authority to allocate any remaining funds for drought response purposes. These funds will be distributed on a first-come, first-served basis to the counties that needed assistance. It was stated that all unused funds were required to be returned by April 31, 2011.
- ❖ Commissioner Bobby Stanley made a motion to approve the *reallocation* of Drought Grant Funds. The motion was seconded by Commissioner Vicky Porter. Motion carried.
- ❖ Commissioner Craig Frazier made a motion to approve the *reallocation* of remaining Drought Grant Funds on a case-by-case or first-come, first-served basis. The motion was seconded by Commissioner James Ferguson. Motion carried.

11. SWCC Cost Share Committee's Recommendations: Mr. David Williams, Deputy Director presented this item. A handout was provided.

- Commission approved the disclosure form for the supervisor, the recommended due date was changed to February 28th of each year. The change to eliminate the notarization in Section 2 of the form. The change to add a signature line in the addendum. Confirmation to include a certification on the original form and addendum with the help of Ms. Jennie Hauser, Commission Attorney. It was noted that these forms will be sent out tomorrow (November 11, 2010) to the districts.
- Proposed Revised Program Review Policy: The Committee is recommending additional language to be added to the current Commission policy on Program Reviews. This policy is in the Cost Share Manual. Changes were marked and highlighted in the handout.
- Additional change: The following paragraph was included in the policy to read as:
"If all items are satisfactorily addressed, the Division will send a letter stating that the district response is accepted and the review is complete."

Districts that do not develop and implement a Division-approved plan on how to address a corrective action will be required to have at least two district supervisors appear before the Commission to explain how they will address all corrective actions. Failure to appear at the next scheduled Commission meeting may affect allocations, contract approvals, payments, and supervisor appointments."

Comments & Suggestions from Commission Members:

- ❖ Commission members requested revised copies of the disclosure form and addendum.
- ❖ Commissioner James Ferguson made a motion to approve the Cost Share Committee's Recommendations. The motion was seconded by Commissioner Craig Frazier. Motion carried.

12. TRC Recommendation: Mrs. Julie Henshaw, NPS Section Chief, presented the following:

1. Consideration of adding county permits for wells as a cost-shareable component to ACSP. Commissioner Richard Smith made a motion to approve the well permit. The motion was seconded by Commissioner Craig Frazier. Motion carried.

2. Consideration of increasing cost cap for stream restoration BMP to \$50,000. Commissioner Vicky Porter made a motion to approve the stream restoration cap of \$50,000. The motion was seconded by Commissioner Richard Smith. Motion carried.
3. Consideration of increasing cost cap for solids separation from tank-based aquaculture production to \$25,000. Commissioner Bobby Stanley made a motion to approve the cap of \$25,000 for solids separation from tank-based aquaculture production. The motion was seconded by Commissioner William Pickett. Motion carried.

Mrs. Henshaw concluded with an update on current TRC activities and informed the Committee on the upcoming meeting date.

13. ACSP Issues from Districts:

- A. Request for Post Approval of ACSP Repair Contract – CREP; Martin SWCD
Commissioner Craig Frazier made a motion to approve the repair contract. The motion was seconded by Commissioner Bobby Stanley. Motion carried.
- B. Request for Post Approval of ACSP Contract – CREP; Martin SWCD
Commissioner Craig Frazier made a motion to approve the post approval of ACSP contract. The motion was seconded by Commissioner Vicky Porter. Motion carried.
- C. Request for ACSP Contract on Government Owned Property; Orange SWCD
Commissioner William Pickett made a motion to approve the ACSP contract on government owned property. The motion was seconded by Commissioner James Ferguson. Motion carried.

VI. PUBLIC COMMENTS

None

VII. ADJOURNMENT

With there being no further items to discuss the meeting adjourned at 10:55 a.m. The motion to adjourn the meeting was made by Commissioner Richard Smith. The motion was seconded by Commissioner Craig Frazier. Motion carried. The next Commission meeting is scheduled during the N.C. Association of Soil & Water Conservation Districts Annual State Meeting. Dates include January 9-11, 2011, at the Grove Park Inn in Asheville, N.C. The Commission meeting will convene January 9th at 3 p.m. in Grand Ballroom C. The work session is scheduled to begin at 10 a.m. on January 9th in the Taft room.


 Patricia K. Harris, Director
 Division of Soil & Water Conservation, Raleigh, N.C
 (Sign & Date)


 Daphne Pinto, Recording Secretary
 (Sign & Date)

These minutes were approved, with corrections, by the North Carolina Soil & Water Conservation Commission on January 9, 2011.


 Patricia K. Harris, Director