

Middlesex County Wetlands Board Minutes

April 10, 2001

Call to Order

The April 10, 2001 meeting of the Middlesex County Wetlands Board was called to order by Chairman Elliott Reed at 9:00 A.M. in the Boardroom of the Woodward Building, Saluda, Virginia.

Present: Mr. Elliott Reed - Chairman
Mr. John Smither - Vice Chairman
Mr. M. Dale Taylor
Mr. B. Ulman Miller
Mr. Woodson Armstead

Staff present: Thomas Jordan, Planner
Cathy Shiflett, Planning Secretary

Also present was Mr. Robert Neikirk from the Virginia Marine Resources Commission (VMRC) and David O'Brien from the Virginia Institute of Marine Science (VIMS).

Minutes

The Board considered the minutes of the March 13, 2001 meeting. On a motion by Mr. Miller and a second by Mr. Taylor, the minutes were approved unanimously.

Public Hearing

Chairman Reed opened the public hearing, and the Middlesex County Wetlands Board took action on the following applications:

A. Continuation - Dominion Virginia Power - Application #2001-0089.

Chairman Reed read the applicant's proposal to construct a 115 kV transmission line (45 feet east and parallel to the existing line) to upgrade the existing transmission line. This project is located on the Piankatank River, at Tax Map #36-9, 13. Staff then read the VIMS report for the project and stated that additional letters of opposition had been received.

Ms. Liz Harper, representative for Dominion Virginia Power, was in attendance to represent the project. Ms. Harper read a prepared statement indicating that due to the comments of the property owner and adjacent landowners with a view of the river crossing, Virginia Power proposed an alternative to building a new double circuit structure line, 45 ft. west of the existing line across the cove and the Piankatank River. After building the line and at least one circuit energized, Virginia Power would remove the old pole line and two foundations in the Wetlands jurisdiction. Virginia Power engineers must finalize engineering and drawings for this proposal, which may require structure locations to be adjusted slightly, and foundation sizes need to be determined. Ms. Harper stated that Virginia Power was requesting a continuance of the public hearing, until their new proposal is finalized. Ms. Harper offered to answer any questions the Board may have.

On a motion by Mr. Miller, seconded by Mr. Smither, and carried by unanimous vote, Application #2001-0089 was continued until the next regularly scheduled meeting on May 8, 2001.

B. Continuation - Dominion Virginia Power, et al - Application #2001-0054.

Chairman Reed read the applicant's proposal to permit the after-the-fact placement of 240' of electrical transmission line housed within a 4" PVC conduit, a pedestal, and meter bases at the Regatta Point Yacht

Club. This project is located on Broad Creek, at Tax Map #41-59-1, 6. Staff then read the VIMS report for the project.

Ms. Melanie Davenport, attorney, was in attendance to represent Dominion Virginia Power. Ms. Davenport stated that Virginia Power's position would be to work with the customer to provide power.

Chairman Reed stated his main concern is that Virginia Power is not a legal applicant since they are not the property owner or have an easement over the property. He further stated that after learning that Mr. Dozier completed all the work himself, except for running the cable in the conduits, it should be his responsibility to apply for the after-the-fact application. He further added his belief that when Mr. Dozier installed the conduit, meter bases and line, he knew placing the project in the wetlands required a permit.

Ms. Davenport commented that she understood there had been a change in elevation of several feet since installation, and additionally, due to several key personnel having recently retired, it was difficult to trace events back to 1999. Ms. Davenport added that Virginia Power desired to resolve the situation through the after-the-fact permit.

Mr. Bruce Arnette, Virginia Power project manager, was also in attendance to represent the project and offered to answer questions the Board may have.

Chairman Reed opened the public hearing.

Upon reviewing Virginia Power file photos provided by Mr. Arnette, Mr. Smither stated that according to the notes with the pictures from 1999 Virginia Power knew the project involved wetlands. Ms. Davenport commented that she first wanted to state Virginia Power had submitted the file information in an effort to provide as much information as possible. She then discussed that the notes only indicated the Virginia Power field installer, who was not a certified wetlands scientist trained to delineate wetlands, believed the area to be wetlands in 1999.

Mr. Taylor questioned why Virginia Power had not followed its own "Requirements for Electric Service." Mr. Taylor and Mr. Miller questioned Mr. Arnette's assertion that at the time of installation, the meter bases were over land. Mr. Taylor added that the site had always been over water when the Wetlands Board had made previous visits. Ms. Davenport stated that Virginia Power did not believe the location of the meter bases to be in violation of their electrical codes.

Mr. Jack Dozier, property owner since 1996, stated that when the original permit was issued in 1985, the entire dock was on land, and that the shoreline had eroded significantly over the years. He displayed a 1984 plat showing the shoreline 5-10 ft. north of the dock. Mr. Dozier showed additional photos of storm erosion. Mr. Dozier stated that the permit had called for rip rap channelward of the marsh and then backfilled. He then advised Virginia Power that he wanted to run the conduit landward of the riprap and backfilled over, and six to ten months later Virginia Power indicated this could be done with several additional months passing before the work was begun. Mr. Dozier had advised Virginia Power to lay the conduit underneath the riprap. In the meantime, employees of Mr. Dozier had placed the conduit under the sand. Mr. Dozier related that he was upset by the action, so he had plywood placed over the marsh grass to protect it from further damage and then he had the marsh grass replanted. He stated the violation was unintentional, but seemed to be the best option at the time.

Chairman Reed advised Mr. Dozier that work should have ceased when going around the marsh and Mr. Jordan should have been contacted.

With there being no further comment from the public, the hearing was closed.

Mr. Taylor stated that the action calls for a new permit, with Mr. Miller in agreement.

Mr. Smither stated he believed Mr. Dozier should reapply with a new after-the-fact application, and submit drawings for review by the Wetlands Board.

On a motion by Mr. Taylor, seconded by Mr. Miller, and carried by unanimous vote, Application #2001-0054 was found to be a invalid application and dismissed it without further consideration.

C. Robert L. Walker - Application #2001-0225.

Chairman Reed read the applicant's proposal to construct 150' of bulkhead in front of an existing failing bulkhead. This project is located on the Chesapeake Bay, at Tax Map #46-6-52. Staff then read the VIMS report for the project.

Mr. Robert Walker, applicant, was in attendance to represent the project. He explained the proposal and offered to answer any questions the Board may have.

Chairman Reed opened the public hearing.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Miller, seconded by Mr. Armstead, and carried by a unanimous vote, Application #2001-0225 was approved. This approval is valid for a term of 18 months.

D. Norview Marina, c/o Andy Harris - Application #2001-0195.

Chairman Reed read the applicant's proposal to construct 250' of bulkhead in front of an existing failing bulkhead and extend three floating docks to 50' in length (currently 30', 30', 40'). This project is located on the Broad Creek, at Tax Map #41-167. Staff then read the VIMS report for the project.

Ms. Carol Collier, agent, was in attendance to represent the project. She explained the proposal and offered to answer any questions the Board may have.

Chairman Reed opened the public hearing.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Smither, seconded by Mr. Armstead, and carried by a unanimous vote, Application #2001-0195 was approved. This approval is valid for a term of 18 months.

E. W. M. Woodson - Application #2001-0288.

Chairman Reed read the applicant's proposal to install a 48' low-profile groin and to replace 60' of bulkhead. This project is located on Sturgeon Creek, at Tax Map #40-13-406. Staff then read the VIMS report for the project.

Carol Collier, agent, was in attendance to represent the project. She explained the proposal and offered to answer any questions the Board may have. Ms. Collier further stated that the purpose of the groin would be to keep sand from building up in the boat basin.

Mr. Smither commented that he did not think the groin would stop the sand problem. Mr. Neikirk suggested that a shorter continuous height structure be considered.

Chairman Reed opened the public hearing.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Taylor, seconded by Mr. Smither, and carried by a unanimous vote, Application #2001-0225 was approved as a 24' continuous height groin with the submission of revised drawings. This approval is valid for a term of 18 months.

F. Loran Walker - Application #2001-0312.

Chairman Reed read the applicant's proposal to place 160' of riprap revetment in front of an existing failing bulkhead. This project is located on the Chesapeake Bay, at Tax Map #37A-3-10. Staff then read the VIMS report for the project.

Carol Collier, agent, was in attendance to represent the project. She explained the proposal and offered to answer any questions the Board may have. Ms. Collier stated that with the area being low and wet, the rock will be brought in by wheelbarrow and it is unknown what is behind the deteriorating bulkhead.

Chairman Reed indicated that he would like to see the project proceed according to the staff recommendation conditioned upon the removal of the existing bulkhead, the revetment being realigned 5' landward of the proposed toe, the submission of revised drawing (with benchmarks), and the submission and approval of a Resource Protection Area (RPA) Development Plan.

Ms. Collier commented that only a small portion in question lies underwater within the Wetlands Board jurisdiction.

Mr. Jordan stated that a portion of the project was outside of the Wetland Board's jurisdiction but the Wetlands Board typically looks at the overall project and the impacts when considering an application. Mr. Neikirk stated that the project is located within the Wetlands Board and State jurisdiction.

After reviewing the photographs and the VIMS report, Mr. Taylor expressed that he did not feel that the project, as proposed, would cause any harm.

Chairman Reed opened the public hearing.
With there being no comment from the public, the hearing was closed.

On a motion by Mr. Taylor, seconded by Mr. Miller, and carried by a unanimous vote, Application #2001-0312 was approved as submitted. This approval is valid for a term of 18 months.

G. Walden Brothers Marina, c/o Chris Plakas - Application #2001-0397.

Chairman Reed read the applicant's proposal to replace 48' of bulkhead and construct a 58' x 6' commercial pier with gasoline pump. This project is located on Broad Creek, at Tax Map #41-111, 112, 113. Staff then read the VIMS report for the project.

Carol Collier, agent, was in attendance to represent the applicant's project. She explained the proposal and offered to answer any questions the Board may have.

Chairman Reed opened the public hearing.
With there being no comment from the public, the hearing was closed.

On a motion by Mr. Miller, seconded by Mr. Taylor, and carried by unanimous vote, Application #2001-0397 was approved with the condition that a marina management plan and a fuel spill prevention and clean-up contingency plan be submitted. This approval is valid for a term of 18 months.

H. Alfred Scott – Application #2001-0007.

Chairman Reed read the applicant's proposal to rebuild farm pond dam and place 139' of riprap revetment, reinforce an existing 48' groin with riprap, and reconstruct a 48' failed groin with riprap to protect dam from further erosion. This project is located on the Rappahannock River, at Tax Map #27-10-2. Staff then read the VIMS report for the project.

Alor Grantham Traywick, agent, was in attendance to represent the project. She explained the proposal and offered to answer any questions the Board may have. Ms. Traywick stated that the revisions to the project had been coordinated with VIMS and the Dam Safety Commission. She stated the proposed revisions

have enlarged the size of the dam, placed additional overflow pipes, and included fill to repair the eroded sections to the north of the dam.

Chairman Reed opened the public hearing.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Taylor, seconded by Mr. Smither, and carried by a unanimous vote, Application #2001-0007 was approved conditioned upon a Land Disturbing Permit being obtained. This approval is valid for a term of 18 months.

I. John Cryer - Application #2001-0204.

Chairman Reed read the applicant's proposal to construct 110' of bulkhead with two return walls. This project is located on LaGrange Creek, at Tax Map #19-19-3. Staff then read the VIMS report for the project.

Ms. Alor Grantham-Traywick, agent, applicant, was in attendance to represent the project. She explained the proposal and offered to answer any questions the Board may have.

Chairman Reed opened the public hearing.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Armstead, seconded by Mr. Miller, and carried by a unanimous vote, Application #2001-0204 was approved. This approval is valid for a term of 18 months.

J. Harbor House, c/o Lou Abernathy – Application #2001-0206.

Chairman Reed read the applicant's proposal to construct 397' of bulkhead in front of an existing failing bulkhead. This project is located on Mill Creek, at Tax Map #41-72-A. Staff then read the VIMS report for the project.

Ms. Alor Grantham-Traywick, agent, was in attendance to represent the applicant's project. She explained the project and offered to answer any questions the Board may have.

Chairman Reed opened the public hearing.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Miller, seconded by Mr. Smither, and carried by a unanimous vote, Application #2001-0206 was approved as submitted for a term of 18 months.

Ms. Traywick commented that she felt it was wrong for her client to have been charged a review fee of two hundred and fifty dollars (\$250.00) for a commercial wetlands application, since the only portion of the Wetlands Board's jurisdiction was the section of the bulkhead being replaced at the concrete boat ramp.

Chairman Reed stated that the Board had discussed the applicant's situation and intended to be consistent with their decisions and felt that the Board had been consistent in this case.

K. Leslie Webb, Jr. - Application #2001-0334.

Chairman Reed read the applicant's proposal to place 85' of riprap in front of an existing bulkhead and the placement of an additional 5' of riprap on two return walls. This project is located on Jackson Creek, at Tax Map #40-39-7. Staff then read the VIMS report for the project.

Alor Grantham-Traywick, agent, was in attendance to represent the applicant's project. She explained the proposal and offered to answer any questions the Board may have.

Chairman Reed opened the public hearing.
With there being no comment from the public, the hearing was closed.

On a motion by Mr. Smither, seconded by Mr. Miller, and carried by a unanimous vote, Application #2001-0334 was approved. This approval is valid for a term of 18 months.

L. Dominion Virginia Power, c/o G. Keith Riggs – Application #2001-0302.

Chairman Reed read the applicant's proposal to relocate the existing power pole line to allow the Virginia Department of Transportation to widen and shift the alignment of SR 631 (North End Rd.). The project is located on Sturgeon Creek. Staff then read the VIMS report for the project.

Mr. Bruce Arnette, Dominion Virginia Power project manager, was in attendance to represent the project and answer any questions the Board may have.

Chairman Reed opened the public hearing.
With there being no comment from the public, the hearing was closed.

On a motion by Mr. Smither, seconded by Mr. Miller, and carried by unanimous vote, Application #2001-0302 was approved. This approval is valid for a term of 18 months.

New Business

A. Recognition of Service

Mr. Jordan congratulated and thanked Chairman Elliot Reed for serving on the Wetlands Board for the past ten years.

Adjournment

With no further business to discuss Mr. Taylor moved to adjourn the meeting, seconded by Mr. Smither, the meeting was adjourned unanimously.

Respectfully submitted.

Wetlands Board Chair

Date