

## Middlesex County Wetlands Board Minutes

November 12, 2002

### **Call to Order**

The November 12, 2002 meeting of the Middlesex County Wetlands Board was called to order by Chairman Miller Smither at 9:00 A.M. in the Boardroom of the Woodward Building, Saluda, Virginia.

Present: Mr. J. Miller Smither - Chairman  
Mr. B. Ulman Miller - Vice Chairman  
Mr. M. Dale Taylor  
Mr. Woodson Armstead  
Mr. Archie Brooks

Staff present: Matther Higgins, Planning Director  
Carissa Lee, Planner  
Cathy Shiflett, Planning Secretary

Also present was Mr. Robert Neikirk from the Virginia Marine Resources Commission (VMRC).

### **Minutes**

The Board considered the minutes of the October 8, 2002 meeting. On a motion by Mr. Miller, and a second by Mr. Brooks, the minutes were approved unanimously.

### **Public Hearing**

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

A. Robert Humphries - Application #2002-1556.

Chairman Smither read the applicant's proposal to construct 25' of vinyl returns in front of existing return walls and place 25' of riprap revetment. This project is located on Meachims Creek, at Tax Map 30A-9-3. Staff then read the VIMS report for the project.

Mr. Humphries, applicant, was in attendance and explained that the application process was new to him, and in an attempt to complete the project himself, he had begun work in error. Mr. Humphries respectfully requested approval from the Board.

Chairman Smither 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 unanimous vote, Application #2002-1556 was approved with staff recommendations based on site visit, wherein, the applicant requested that the Board consider a 25' extension of the vinyl bulkhead instead of 25' of riprap revetment. The bank behind the 25' bulkhead extension shall be re-vegetated to prevent any additional bank erosion. This approval is valid for a term of 18 months.

B. Emil Bialkowski - Application #2002-1571.

Chairman Smither read the applicant's proposal requesting to remove existing bulkhead and groins and place 80' of riprap revetment. This project is located on the Rappahannock River, at Tax Map #2A-1-14.

Staff then read the VIMS report for the project and noted that a letter was included in the Board's information packet explaining the current status of the project.

Lucille Morelli, agent, was in attendance to represent the project. Ms. Morelli explained that through an oversight, she made a mistake by allowing work to be started under an expired permit. She apologized and stated her desire to work with the Board to bring the project into compliance.

Chairman Smither opened the public hearing.

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

Mr. Taylor commented that the dirt should be moved to prevent soil erosion into the river.

Ms. Morelli responded that this would be accomplished as soon as weather permitted, and upon approval of the application, the project would be completed.

Chairman Smither explained that in previous months, the Board had attempted to address the issue of work being done without permits, and while sympathetic to oversights, he felt the Board needed to take action for the sake of uniformity.

On a motion by Mr. Taylor, seconded by Mr. Miller, and carried by unanimous vote, Application #2002-1571 was approved as submitted with the assessment of a two hundred fifty (\$250) dollar civil charge to be paid by the applicant within thirty (30) days. This approval is valid for a term of 18 months.

C. Eston Cosby - Application #2002-1773.

Chairman Smither read the applicant's proposal to dredge 175 cubic yards, construct 55' bulkhead, install 30' groin with 16' spur, construct 25' vinyl bulkhead in front of an existing bulkhead, place a 30' stone groin, refurbish an existing stone groin and extend 10' and place 390 square feet of beach nourishment. This project is located on Mill Creek, at Tax Map #30C-1-20 and 30C-1-21. Staff then read the VIMS report for the project.

Ms. Alor Grantham Traywick, agent, was in attendance to represent the project. She stated that the proposal had been revised in accordance with the VIMS report, VMRC recommendations, and adjacent property owner concerns. Ms. Traywick explained that under the proposed revisions to the project, 1) repairs to the existing bulkhead would be done, 2) no additional bulkheads would be built, but the request for groins would be retained, and 3) dredging would not be done.

Chairman Smither opened the public hearing.

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

Chairman Smither commented that the revisions were significantly different from the original proposal. He further commented that during the site visit, numerous flags on site created confusion as to the intended markings. Chairman Smither stated that he would like the Board to return to the site with the revised drawings for comparison.

Ms. Traywick stated that she would be agreeable to meeting the Board on site during their next site meeting to assist in clarifying the intent of the proposed project.

Mr. Brooks made a motion, seconded by Mr. Miller, to continue the hearing until the December 10, 2002 hearing, allowing the Board an opportunity to re-visit the site and review revisions to the proposal.

Mr. Taylor expressed concern to Mr. Neikirk regarding sand build-up and the effects towards property owners within the cove.

Mr. Neikirk commented that the groins were designed to impede sand build-up.

Ms. Traywick recommended that she and the Board meet on site, in addition to Mr. O'Brien and Mr. Cosby, if possible. She noted that Mr. Cosby had re-designed the project and was willing to work with VIMS, the Army Corps, VMRC and the Wetlands Board.

Mr. Taylor commented that he did not see anything wrong with the revised proposal as related to the Board's jurisdiction, noting that VMRC would determine the remaining portion of the proposal.

On a 3-2 vote, with Mr. Taylor and Chairman Smither opposed, Application #2002-1773 was continued until the December 10, 2002 hearing.

D. Schuyler Bristow - Application #2002-1882.

Chairman Smither read the applicant's proposal to place 130' of riprap revetment. This project is located on Providence Creek, at Tax Map #39-27-3. Staff then read the VIMS report for the project. Mr. Higgins noted that revised drawings had been submitted, depicting the bank to be graded back 60', rather than 80' back as originally submitted.

Ms. 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.

Chairman Smither 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. Taylor, and carried by a unanimous vote, Application #2002-1882 was approved with staff recommendation of the revised grading plan and re-vegetation of graded bank, as well as revisions to Land Disturbing permit #2002-37 from the Department of Planning and Community Development to reflect the new grading plan. This approval is valid for a term of 18 months.

**Old Business**

A. Continued – E. Charles Silver, II – Application #2002-1527

Chairman Smither read the applicant's proposal to construct four 48' low-profile groins (with one including a 20' spur) with the southern two groins having riprap placed at their heads (landward ends), relocate a 15' spur on an existing groin to MLW, and place three 30' sections of marsh toe scour. This proposed project is located on LaGrange Creek, at Tax Map #19-19-1. Staff then read the VIMS report for the project.

Mr. Silver, applicant, was present to represent the project. He explained the project and noted that he was not sure why the proposal had been continued previously.

Chairman Smither explained that no one had been present to represent the project at two previous hearings to answer the Board's questions related to the proposed project.

Mr. Silver related that previous staff had not indicated that his attendance was necessary.

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

Mr. Taylor expressed concern for the salt-water pond on the property, and noted that he didn't want any detrimental effects to the pond. He suggested that the proposed groin be removed if it caused the mouth of the pond to fill in with sand.

Mr. Silver expressed his desire to protect the pond, and noted that he believed the groin would be beneficial to the pond opening.

On a motion by Mr. Taylor, seconded by Mr. Brooks, and carried by unanimous vote, Application #2002-1527 was approved conditioned upon removal of the 48' groin if it causes the mouth of the salt pond to be filled in, in addition to staff recommendations that the groins shall be artificially filled with sand on the updrift side to minimize downdrift effects. This approval is valid for a term of 18 months.

Mr. Silver and the Board concurred that the Board would re-visit the site in one year to observe the salt pond and any potential sand fill-in.

B. Continued – Stephen D. Foxx – Application #2002-1528

Chairman Smither read the applicant's proposal to place three 60' breakwaters and 750 cu. yds. of beach nourishment. This project is located on Sturgeon Creek, at Tax Map #40-14A. Chairman Smither stated that the agent had submitted a letter requesting that the project be continued until the December 10, 2002 public hearing, allowing additional time for completion of revisions to the proposed project.

Mr. Higgins stated that VIMS representatives had met at the site, and that the applicant intends to propose less intrusive measures.

On a motion by Mr. Taylor, seconded by Mr. Miller, and carried by unanimous vote, Application #2002-1528 was continued until the December public hearing.

**New Business**

A. Pending Enforcement Actions

Chairman Smither announced that at Mr. Higgins' request the Board of Supervisors would hold a public hearing to discuss the assessment of after-the-fact fees for contractors, agents, and/or property owners related to unpermitted wetlands and land disturbing activities.

Chairman Smither related that the Board had assessed a civil charge to Mr. John Bell, VMRC #2002-1720, of five hundred (\$500) dollars, with no time limit set for payment, which needed to be addressed.

Mr. Higgins commented that the permit would not be issued until payment has been made.

Mr. Taylor suggested that a letter be sent to Mr. Bell advising him that payment must be made within thirty (30) days or the permit would be denied and the matter would be forwarded to the County attorney for court action.

On a motion by Mr. Taylor, seconded by Mr. Brooks, and carried by unanimous vote, the Board voted to send a letter to Mr. John Bell advising him to make payment within thirty (30) days to avoid court action.

Chairman Smither noted that in keeping with surrounding localities, the Board would like to pursue assessing civil charges in an effort to discourage work being performed prior to permits being issued.

Mr. Higgins noted that staff was currently reviewing wetlands ordinances from other localities for comparison purposes.

There was further discussion among the Board, staff, and Mr. Neikirk considering the placement of bonds, letters of credit, and associated fees or sliding scale, before projects are started as means of encouraging successful completion of projects and final inspection by staff. Mr. Taylor suggested that recommendations be made and published by January 1, 2003.

On a motion by Mr. Taylor, seconded by Mr. Miller, and carried by unanimous vote, the Board voted to submit a letter to the Board of Supervisors requesting a sliding scale bond assessment equal to the current bonds assessed with Land Disturbing permits.

**B. Introduction of New Staff Member**

Mr. Higgins introduced and welcomed Carissa R. Lee, Planner and staff Wetlands Board liason.

**C. VIMS Workshop**

Mr. Higgins presented an invitation to a Wetlands Workshop, presented by VIMS, to be held November 21, 2002, which would explore the use of social and economic considerations in decisions concerning Virginia's tidal wetland resource. Chairman Smither, Messer's. Taylor, Miller, and Armstead, as well as Ms. Lee, expressed their intentions to attend the workshop.

**Adjournment**

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

Respectfully submitted.

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Wetlands Board Chair

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Date