

Middlesex County Wetlands Board Minutes

May 13, 2003

Call to Order

The May 13, 2003 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. M. Dale Taylor
Mr. Woodson Armstead

Absent: Mr. B. Ulman Miller – Vice Chairman
Mr. Archie Brooks

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

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

I. Minutes

The Board considered the minutes of the April 8, 2003 meeting. On a motion by Mr. Taylor, and a second by Mr. Armstead, the minutes were approved unanimously.

II. Public Hearing

Chairman Smither announced that with three (3) Board Members present, a unanimous vote would be necessary for approval.

Chairman Smither reminded the Board that project approval must be based on an application as presented. He stated that the Board could not allow adjustments during the public hearing; changes must be re-submitted by the applicant.

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

A. Phillip Stargardt - Application #2003-0652.

Chairman Smither read the applicant's proposal requesting to install 120' of riprap revetment. This project is located on Mill Creek, at Tax Map # 38-2-3. Staff then read the VIMS report for the project.

Mrs. Karla Havens, agent, was in attendance to represent the project.

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 unanimous vote, Application #2003-0652 was approved as submitted. This approval is valid for a term of 18 months.

B. John Lollar - Application #2003-0405.

Chairman Smither read the applicant's proposal requesting to install 175' of riprap revetment. The property for which application is being made is located on the Rappahannock River, at Tax Map #30A-2-1. Staff then read the VIMS report for the project.

Ms. Alor Grantham-Traywick, agent, was in attendance to represent the project.

Chairman Smither opened the public hearing.

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

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, Application #2003-0405 approved as submitted. This approval is valid for a term of 18 months.

C. Herbert Quinn - Application #2003-0503.

Chairman Smither read the applicant's proposal requesting to install 150' of bulkhead and backfill behind, and remove mud from existing boathouse and immediate entrance with upland disposal of spoils. This project is located on LaGrange Creek, at Tax Map # 14-11. Staff then read the VIMS report for the project recommending denial as submitted.

Mr. Herbert Quinn, applicant, was in attendance to represent the project. Mr. Quinn submitted a revised drawing and letter. Explained that after meeting with a representative of the Army Corps of Engineers, he proposed a marsh sill toe revision without backfill.

Ms. Lee suggested that Mr. Quinn submit a more detailed drawing, with wetland vegetation clearly labeled. Chairman Smither agreed that a more accurate revised drawing should be submitted, as well as a revised application. Mr. Quinn agreed to do so.

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 unanimous vote, Application #2003-0503 was continued pending receipt of a revised drawing and application.

D. Randy Revercomb - Application #2003-0545.

Chairman Smither read the applicant's proposal requesting to install 1,500' of riprap revetment. This project is located on the Rappahannock River, at Tax Map # 9-65. Staff announced that Mr. Revercomb had submitted a written request of a thirty (30) day extension in order to revise the drawing. Staff recommended approval of the extension request.

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, Application #2003-0545 was granted a thirty (30) day extension as requested.

E. Brenda K. Samuel - Application #2003-0715.

Chairman Smither read the applicant's proposal requesting to install 180' of riprap revetment. This project is located on Whiting Creek, at Tax Map # 28-133A. Staff then read the VIMS report for the project.

Mrs. Lucille Morelli, agent, was in attendance to represent the project. Mrs. Morelli stated that she would encourage the applicant to vegetate the bank as suggested by staff, and would place the riprap landward of wetland vegetation in accordance with staff recommendations.

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 unanimous vote, Application #2003-0715 was approved in accordance with staff recommendations that the riprap be placed landward of wetland vegetation, and encourage the applicant to reestablish vegetation on the bank to help with erosion control. This approval is valid for a term of 18 months.

F. James W. Lucas - Application #2003-0713.

Chairman Smither read the applicant's proposal requesting to install 140' of riprap revetment. This project is located on Mill Creek, at Tax Map # 30-8-1. Staff then read the VIMS report for the project.

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 unanimous vote, Application #2003-0652 was approved with revised drawing dated 5/12/03 with the condition that the riprap be placed landward of wetland vegetation as per staff recommendation. Revised drawing depicted placing the riprap at a 1.5:1 slope, 3 ft. high and 4' wide. This approval is valid for a term of 18 months.

III. Old Business

A. Show Cause Hearing – Francis Huger – Application #1999-1317.

Chairman Smither introduced the Show Cause Hearing of Francis Huger regarding the completed wetlands permit without signing and notarizing wetlands permit. Mrs. Huger resides in New Jersey and was not present for the hearing. Staff read a letter from Mrs. Huger explaining the circumstances and offering to pay civil charges up to two hundred fifty dollars. Ms. Lee recommended acceptance of the letter from Mrs. Huger.

Mrs. Lucille Morelli asked permission to speak. Mrs. Morelli stated that she had been the agent on the project, and felt that she should have been notified prior to the public hearing. Mrs. Morelli further stated that perhaps the notarized copies had been submitted and misplaced inadvertently.

Ms. Lee explained that there were no notarized copies in the file when she assumed the staff position. She noted that the current policy was to hold the property owner responsible for fulfilling the process requirements and leave it up to the homeowner to decide whether or not to include the agent in the process.

Chairman Smither stated that the Board of Supervisors preferred that the Wetlands Board deal directly with the property owner in such cases, and in the past, the Board had assessed a typical charge of two hundred fifty dollars (\$250).

Mrs. Morelli stated that she would check her records and expressed her opinion that it was wrong to penalize the homeowner or agent when the application fees had been paid, the project was advertised, and had been granted approval during the public hearing process.

Chairman Smither commented that while he respected the agent's position, the Board was trying to treat everyone the same. The process was not meant to reflect on Mrs. Morelli as an agent, he stressed.

Ms. Lee explained that a notarized permit is important, as it shows that the applicant is aware of the Board's findings, and that the applicant agrees to the Board's decision and the approved scope of the project.

Mrs. Morelli suggested that the Board notify the applicant as well as the agent in such cases. She felt that as the agent for the project she should have been notified of any problems that develop.

Ms. Lee explained as of January 1, 2003, procedures had been revised to include as part of the permit process a time limit of sixty (60) days for a permit to be notarized and returned; otherwise the permit would become void. Ms. Lee noted that she did not object to sending such notice to the applicant, as well as the agent, in the future.

Chairman Smither further explained that the Board of Supervisors had made it clear that the Wetlands Board was to hold property owners responsible for compliance and to go through the civil process in cases

of non-compliance. He further stated that the Wetlands Board is responsible to administer the Wetlands Act correctly and had directed staff to review files for complete compliance.

Mr. Taylor recommended continuing the hearing to allow time for further review of the file records.

Chairman Smither agreed that the Board needed additional time for further review of the records and procedures in order to make a fair decision.

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, Show Cause Hearing – Francis Huger – Application # 1999-1317 was continued for thirty (30) days.

B. Show Cause Hearing – Raymond Murphy – Application # 2001-1434

Chairman Smither introduced the Show Cause Hearing of Raymond Murphy regarding a completed wetlands permit without signing and notarizing wetlands permit.

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, action on Show Cause Hearing – Raymond Murphy- Application #2001-1434 was deferred for thirty (30) days to allow further review as in the previous case.

IV. New Business

A. Administrative

Chairman Smither commented on the deferred action cases, noting that upon taking the staff position, Ms. Lee discovered the two (2) unresolved cases of unsigned permits without notarization. He noted that both property owners offered to pay after the fact fees of two hundred fifty (\$250) dollars each.

Mr. Neikirk explained VMRC permit procedures whereby a letter is sent requesting payment. After approval, the permit must be signed prior to issuing the permit and a placard for placement at the project site. Ms. Lee, Mr. Higgins, and the Board discussed VMRC procedures and agreed that the process would be good to initiate.

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, the Board voted to adopt VMRC procedures for issuing approved permits.

Chairman Smither requested that Mr. Higgins convey to the Board of Supervisors the dilemma facing the Wetlands Board in that the intent was not to penalize agents, but rather to deal with applicants directly as previously directed by the Supervisors. Additionally, he asked Mr. Higgins to explain the Wetlands Board was deferring action until further review. Mr. Higgins expressed that he would relate the concerns to the Board of Supervisors.

Ms. Lee explained changes she had initiated and sent to all agents and contractors by letter, as well as a "Before You Begin" sheet with instructions. Ms. Lee further noted staff was making every effort to improve communications with agents/applicants regarding the permitting process.

Mr. Taylor requested Ms. Lee to write the new policies and procedures and provide copies to the Board. Ms. Lee stated that she would install the new policy immediately and provide the information to the Board, as requested. Mr. Taylor noted his agreement with the proposed action.

B. Wetlands Application #1998-0750, Army Corps of Engineers, request an extension to this permit. Original permit expires on July 14, 2003.

Chairman Smither introduced the extension request. Ms. Lee noted that Mr. Neikirk had advised that maintenance dredging was usually approved for five (5) years, with one extension granted for a total of ten (10) years.

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, Application #1998-0750 was granted a one-time extension for an additional five (5) years.

- C. Wetlands Application #1995-0109, John E. McPherson, request an extension to this permit. Original permit expires on May 30, 2003.

Chairman Smither introduced the extension request. Ms. Lee stated this was the fourth request for an extension and that the extension request was for five (5) additional years.

Mr. Neikirk stated that the applicant had requested an extension from VMRC for the dredging portion of the application. Mr. Neikirk stated that VMRC would not grant an extension exceeding ten (10) years from the original permit date. He noted the Board's jurisdiction over the groin cell portion of the project.

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, Application # 1995-0109 was granted a final extension of one (1) year.

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.

Wetlands Board Chair

Date