

## Middlesex County Wetlands Board Minutes

January 13, 2004

### **Call to Order**

The January 13, 2004 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: Matthew Higgins, Planning Director  
Amy Easterbrook, 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 December 9, 2003 meeting. On a motion by Mr. Miller, and a second by Mr. Armstead, the minutes were approved unanimously.

### **Election of Officers**

Mr. Higgins advised the Board that officers were to be elected at the meeting. Mr. Higgins opened the floor for nominations for Chairman.

On a motion by Mr. Taylor, seconded by Mr. Brooks, and carried by unanimous vote, Mr. Smither was reelected Chairman and Mr. Miller was reelected Vice Chairman.

### **Public Hearing**

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

A. John Elkin - Application #2003-2219.

Chairman Smither read the applicant's proposal requesting to remove phragmites and indigenous grasses by cut, spray, and burn. This project is located on LaGrange Creek, at Tax Map #19-19-4. Staff then read the VIMS report for the project. Staff recommended that the application be continued until a comprehensive management plan is developed.

Mr. John Elkin, applicant, was in attendance to represent the project. Mr. Elkin explained that a tidal pond and stream were on the property and while he wanted to clean up storm related debris, he did not wish to harm the natural wildlife habitat. Mr. Elkin commented that since the phragmite area was surrounded by water on three sides, the site was safe for burning. He further stated that he planned to replant the area with suitable plants, and did not intend spraying the native vegetation.

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

Chairman Smither stated his concern that with so much storm debris on the property, burning activities might be hazardous. Mr. Elkin related that he planned to clear small areas at a time and remove debris prior to burning the phragmites.

Mr. Taylor expressed concern that Staff, VIMS and the Board may need to review the issues further.

Mr. Higgins stated that he would work with Mr. Elkins and VIMS to develop an eradication plan, as there was not enough information available to implement the most effective plan. Mr. Higgins further stated that the Board should develop a guide to be used for future requests.

Chairman Smither agreed and explained the Board's intent to work with the applicant, but for the sake of uniformity and fairness, the Board would like to develop a plan for future applicants' use.

On a motion by Mr. Armstead, seconded by Mr. Brooks, and carried by unanimous vote, Application #2003-2219 was continued until the February 2004 meeting.

B. Gerald Parker - Application #2003-2371.

Chairman Smither read the applicant's proposal requesting to construct 170' of new bulkhead with riprap placed at both ends. This project is located on Jackson Creek, at Tax Map #40-104-24. Staff then read the VIMS report for the project.

Alor Grantham Traywick, 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. Miller, seconded by Mr. Taylor, and carried by unanimous vote, Application #2003-2371 was approved as submitted with staff recommendation that the bulkhead be aligned as close to the existing bank as possible and still maintain a straight line. This approval is valid for a term of 18 months.

C. Frederick Jones - Application #2003-2384.

Chairman Smither read the applicant's proposal to install 180' of riprap revetment. This project is located on Healy Creek, at Tax Map #39D-1-12. Staff then read the VIMS report for the project.

Mr. Jay Foster, R&W Marine Contractors, 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. Brooks, and carried by unanimous vote, Application #2003-2384 was approved as submitted. This approval is valid for a term of 18 months.

#### **IV. New Business**

A. Violation – Tri-County Farms, c/o Glenn Bunch.

Chairman Smither introduced violation at the property of Tri-County Farms, situated on the Rappahannock River, in Middlesex County at Tax Map #27-170, 171, 172, 173, 174.

Staff presented a chronological sequence of events prior to issuance of a Sworn Complaint regarding a Wetlands Ordinance Violation noted during a site visit on December 16, 2003 of unauthorized dredging of wetlands and pond and construction of travel lift. Mr. Higgins stated that Mr. Bunch's attorney, Mr. James Ward, had requested a 30-day extension to allow time to review the case. He explained that Mr. Gary Osborn had made a complaint and presented photographs of the site before and after the violation was issued.

Chairman Smither stated that Mr. Osborn would give sworn testimony at the hearing and a tape of the proceedings would be provided to Mr. Bunch's attorney. He further stated that on this and future show cause hearings, all witnesses and staff would be asked to provide sworn testimony.

Mr. Gary Osborn was sworn in and asked to relate circumstances he had witnessed on the Tri-County Farms property. Mr. Osborn stated that he frequently rows a boat down the Rappahannock River for exercise. In June, he noticed and photographed an area of the riverbank had been opened. Mr. Osborn commented that he was suspicious that the bank was opened to allow something to drain into the river and notified the Middlesex County Wetlands Department. Mr. Osborn related that after Hurricane Isabel, he was curious of the results and walked down the shoreline and photographed the area.

Mr. Brooks asked if Mr. Osborn was aware that Mr. Bunch was trying to get permission to drain the pond. Mr. Osborn responded that he did not know, and further, did not recall seeing an application for such activity published in the newspaper.

Chairman Smither pointed out that concrete rubble used as riprap along the riverbank was observed in the June 2003 photograph was not in the photograph taken in the fall season. Chairman Smither expressed appreciation to Mr. Osborn for his testimony and noted that the Board may want to ask him further questions at the February 2004 hearing.

Chairman Smither requested Mr. Higgins and Mrs. Easterbrook to come forward and provide additional sworn testimony that might be relevant. He again stated that the Board was gathering information only at this time rather than taking action.

Mr. Higgins stated that aerial photographs would be made available, as well as the site plan drawings for a marina that Mr. Bunch recently submitted to his office. Mr. Higgins recommended that in keeping with Mr. Ward's request for extension, further discussion relating to Mr. Bunch's case should not take place at this time.

On a motion by Mr. Armstead, seconded by Mr. Miller, and carried by unanimous vote, Violation – Tri-County Farms was continued until the February 10, 2004 meeting.

B. Administrative – Article 4A: Chesapeake Bay Preservation District.

Mr. Higgins provided the Board with a copy of the updated Article 4A: Chesapeake Bay Preservation District, effective December 31, 2003.

C. Dublfun Campground – Mr. James Perdue.

Mr. Higgins stated that Mr. Perdue had paid after-the-fact fees assessed by the Board for a violation, but he had not received final drawings as requested. Mr. Higgins proposed sending a letter requesting that Mr. Perdue submit drawings.

On a motion by Mr. Armstead, seconded by Mr. Taylor, and carried by unanimous vote, Mr. Higgins was authorized to send a letter to Mr. Perdue asking that he comply with the Board's request to submit final drawings.

### **Adjournment**

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

Respectfully submitted,

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Wetlands Board Chair

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Date

