

Middlesex County Wetlands Board Minutes

June 8, 2004

Call to Order

The June 8, 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. M. Dale Taylor
Mr. Woodson Armstead
Mr. Archie Brooks

Absent: Mr. B. Ulman Miller – Vice Chairman

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 May 11, 2004 meeting. On a motion by Mr. Taylor, and a second by Mr. Armstead, the minutes were approved unanimously.

Old Business

A. Sworn Complaint – Charles and Cynthia Krumbein, violation Chapter 13 of the Code of Virginia.

Chairman Smither stated that the Sworn Complaint cited unauthorized creation of breakwaters and that the Board had assessed a \$1,500 civil charge the previous month.

Staff explained that Mrs. Krumbein requested a thirty (30) day period before accepting or refusing the civil charge. Mrs. Easterbrook commented that the restoration order is in place and has not been completed. She further commented that the Board could not approve Application #2004-0578 until the open violation has been resolved. Additionally, Mrs. Easterbrook stated that Mr. & Mrs. Krumbein had filed an appeal with VMRC, which was denied. Staff recommended asking Mr. Krumbein if he had made a decision regarding payment of the civil charge.

Mr. Krumbein related that while the Board may have meant well, he felt the Board didn't consider all the evidence prior to making a decision. Mr. Krumbein stated that he was inclined to wait until the deadline of 4:30 p.m. June 9, 2004 to make the decision.

Chairman Smither reminded Mr. Krumbein that due to time constraints, the Board was obligated to hear Application #2004-0578 at this meeting. He related that Mrs. Krumbein was advised on site that while the Board did not have a problem with the proposed project, the restoration order must be completed before further activities would be permitted on the property.

Mrs. Easterbrook presented staff recommendation that due to the open violation Staff recommends continuing the case until the violation has been resolved.

Mr. Ed Veazey, President of SEAMENT Shoreline Systems, Inc., was invited to give a presentation of the precast shoreline erosion control products to be utilized on the Krumbein property upon approval of Application

#2004-0578. Mr. Veazey's presentation explained the product and gave illustrations of locations where it was used successfully for shoreline erosion control.

Chairman Smither opened the Public Hearing.

Mr. Robert Walker, adjoining property owner, stated that while he was in favor allowing the Krumbein's to restore what was lost during Hurricane Isabel, he was opposed to the marsh toe ring as submerged rocks at high tide presented potential danger to people on jet ski's and dinghy's, unaware of the hazard, as well as loss of a wading area.

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

Mr. Krumbein asked staff if she had seen the rocks moved by the action of the water.

Mrs. Easterbrook noted that in weekly site visits, she noted an accumulation of rocks migrating inland.

Chairman Smither interjected that the issue of the rocks had been decided previously. He stated that an illegal action had been ruled on, and had been supported by VMRC. Chairman Smither reiterated there was not a problem with the upcoming application, and the issued to be determined at this hearing was to clear the unpermitted/unauthorized action of the unauthorized creation of breakwaters. He stressed that the new project could not be approved until the violation has been resolved.

Mr. Neikirk agreed that the marsh toe cannot remain as is, and the violation must be resolved before acting on the new application.

Chairman Smither commented that he thought the Board made it clear to Mrs. Krumbein that fees and processes were waived after the Hurricane to allow property owners to restore properties to the original condition prior to the storm. He stressed that problems resulted when the parameters were exceeded. Chairman Smither reminded Mr. Krumbein that additional charges could have been assessed, and that the Board had been reasonable in the assessment. Chairman Smither stated that Mr. Krumbein could indeed wait until close of business on June 9, 2004 to make his decision. Chairman Smither reminded Mr. Krumbein that if the charge is not paid, the County and VMRC would pursue legal action.

On a motion by Mr. Taylor, seconded by Mr. Brooks and carried by unanimous vote, the Board voted to continue Application #2004-0578 until the July meeting.

Public Hearing

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

A. Stanley Warren - Application #2004-0770.

Chairman Smither read the applicant's proposal requesting to install 220' of bulkhead channelward of existing bulkhead and 128' of bulkhead with backfill landward of existing riprap. This project is located on the Piankatank River, at Tax Map #37A-7-21. Staff then read the VIMS report for the project.

Ms. Alor Grantham Traywick, agent, was in attendance to represent the project. Ms. Traywick stated that she was unaware of the previous permit and that the VIMS recommendations were acceptable and that she would submit revised drawings.

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 #2004-0770 was approved in accordance with staff recommendations for approval of the 220' bulkhead replacement

and approval of the 128' new bulkhead, with the condition that the new bulkhead be aligned from the historic bulkhead to the landward corner of the boat ramp following the VIMS recommendation, in addition to staff recommendation that the landowners stop mowing the fringe marsh and allow it to provide natural erosion protection. . This approval is valid for a term of 18 months.

B. Joseph and Jessica Guest - Application #2004-0950.

Chairman Smither read the applicant's proposal requesting to install 64' of new bulkhead to be placed as landward as possible, bank grading material is to be used for back fill. The property for which the application is being made is located on Sturgeon Creek, Tax Map #40-27-14. Staff then read the VIMS report for the project.

Ms. Alor Grantham Traywick, agent, was in attendance to represent the project. Ms. Traywick stated that she would prefer to tie-in the bulkhead with an adjoining property owner's bulkhead and keep it in a straight line, rather than have a bend.

Chairman Smither opened the public hearing.

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

Mr. Taylor commented that there was not much grass in the area, and he did not see a problem with the request. Chairman Smither and Mrs. Easterbrook expressed agreement.

On a motion by Mr. Armstead, seconded by Mr. Taylor, and carried by unanimous vote, Application #2004-0950 was approved as submitted.

C. Robert Pitha - Application #2004-1156.

Chairman Smither read the applicant's proposal requesting an after-the-fact permit to install a 24' low-profile groin for erosion control. The property is located on Sturgeon Creek, Tax Map #40-104-26. Staff then read the VIMS report for the project.

Ms. Marilyn Randolph, sister of Mr. Pitha, was in attendance to represent the request.

Chairman Smither 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. Armstead, and carried by unanimous vote, Application #2004-1156 was approved as submitted. This approval is valid for a term of 18 months.

IV. New Business

A. Extension Request – Wetlands Permit – Eston Cosby, Application #2002-1773.

Chairman Smither read the applicant's request for extension of permit to replace sheeting as needed on 25' of existing bulkhead, install 30' stone groin, refurbish existing stone groin with 10' extension, and place 20' x 5' of beach nourishment. Current expiration date is 6/10/2004. Staff then read recommendation to grant the extension based on revised drawings for an additional 18-month period, making a new expiration date of 12/08/05. Staff further stated that an adjoining property had submitted a letter of opposition, but was not in attendance at the hearing.

Mr. Taylor suggested continuing the request until the July hearing to allow the adjoining property to be in attendance.

Mrs. Easterbrook stated that the adjoining property had been notified and was aware of the meeting date.

On a motion by Mr. Taylor, seconded by Mr. Brooks, and carried by unanimous vote, Application #2002-1773 was granted an 18-month extension, making a new expiration date of 12/08/05.

Adjournment

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

Respectfully submitted,

Wetlands Board Chair

Date