

Middlesex County Wetlands Board Minutes

September 13, 2005

Call to Order

The September 13, 2005 meeting of the Middlesex County Wetlands Board was called to order by Chairman Miller Smither at 9:00 a.m. in the Circuit Courtroom of the Middlesex County Courthouse, Saluda, Virginia.

Present: Mr. J. Miller Smither – Chairman
Mr. Woodson Armstead
Mr. Archie Brooks
Mr. M. Dale Taylor
Mrs. Mary Ann Willis

Absent: Mr. B. Ulman Miller – Vice Chairman

Staff present: Amy Easterbrook, Planner
Matthew Higgins, Planning Director
Cathy Shiflett, Planning Department Secretary

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

Minutes

The Board considered the minutes of the August 9, 2005 meeting. On a motion by Mr. Armstead, and a second by Mrs. Willis, 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. Tri-County Farms, LLC – Wetlands Application #2005-1523.

Chairman Smither read the applicant's proposal requesting to upgrade the marina facility by extending the existing pier 241' and adding 2 L-heads with 103 slips, (448' with 54 slips and 452' with 49 slips). A 1,596' wave screen with two 30' gaps will be constructed to protect the pier and slips. The property for which the application is being made is located on the Rappahannock River, Tax Map #27-174. Staff then read the VIMS report for the project.

Mr. Glenn Bunch, applicant, and Mr. Bill Pennix, engineer, were in attendance to represent the project. Mr. Bunch explained his intent to build a marina and boat slips, with the vinyl sheet walls as protection for the boat slips.

Mr. Pennix explained the design was based on FEMA recommendations with redundant strength to withstand hurricane and wave actions.

Chairman Smither opened the public hearing.

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

Mr. Taylor questioned whether Mr. Bunch would be responsible for clean up if a storm caused debris along the shoreline.

Mr. Bunch stated he would, although he stated the vinyl walls were known for strength. He explained that once water gets over the walls, pressure would be reduced. Mr. Bunch expressed his belief that a harbor in the River was a very good idea.

Mr. Brooks questioned whether there were similar walls in the area designed to withstand hurricane forces.

Mr. Bunch responded there were similar walls in Texas that had withstood three (3) major storms with no damage to the walls.

Mr. Taylor expressed concern that if the walls did not withstand severe storms the River shoreline would suffer damage.

Mr. Pennix explained that the vinyl walls were designed to withstand some flex, to bend rather than break.

Mrs. Willis questioned whether there was an approved site plan for the uplands, adequate pump out facilities, etc.

Mr. Pennix stated there was an approved site plan and an approved sewage permit for 2000 gallons per day.

Mrs. Easterbrook noted there was no health department approval for 103 slips. She questioned whether engineering determined there would be adequate tidal flushing of the proposed 5-acre marina facility. She expressed concern that if there was inadequate flushing low dissolved oxygen and the concentration of pollutants in the basin could be a problem. Also the disruption of sand transport could have serious negative environmental impacts.

Mr. Bunch stated his belief that two 30 ft. openings would provide adequate water movement for flushing and that it would be a good habitat.

Mrs. Willis commented that the project was extensive and she recommended further study, as several important issues were not currently addressed.

Mr. Bunch commented that there were many more boats in creeks, blocking channels, and he did not feel the proposed project would have much impact on the River.

Chairman Smither expressed concern that the proposed project would not withstand severe storms, based on excessive damage he had observed along the River and the breaching of the berm on the property from Hurricane Isabel.

Mr. Pennix explained that while he understood the concerns stated, the project was designed to withstand floodwaters.

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, Application #2005-1523 was denied.

B. Melinda Sledd - Wetlands Application #2005-1551.

Chairman Smither read the applicant's proposal requesting to install 180' of marsh toe revetment and two breakwaters (38' x 16' x 4' and 44' x 16' x 4'). The property for which the application is being made is located on Robinson Creek, Tax Map #19C-5-39. Staff then read the VIMS report for the project.

Joey Scott, agent, was in attendance to represent the project. Mr. Scott explained the proposed project and noted that the two large breakwaters were proposed in an attempt to protect shoreline.

Chairman Smither opened the public hearing.
With there being no comment from the public, the hearing was closed.
Mr. Brooks questioned whether there was erosion on the two marsh points.

Mr. Scott stated there was erosion in the area and the larger breakwater structures were proposed to prevent further erosion. He noted the applicant's desire to maintain and preserve the marsh.

Chairman Smither expressed concern with the size of the breakwaters, as there was a marsh toe sill on an adjacent property.

Mr. Taylor stated he did not want to see the grasses covered and he did not see the need for the large breakwaters.

Chairman Smither agreed and noted he would not want to see grassed areas killed during the construction process. He noted that the breakwaters may cause silting behind.

Mrs. Willis noted her understanding that the applicant was trying to protect the property, but she noted the Board did not see erosion during a site visit. She stated the marsh seemed to be doing its' job of protecting the shoreline.

Mr. Scott stated the shoreline has moved, shown by surveys of the area offshore.

Mr. Armstead made a motion to approve the project based on staff recommendation.

Mr. Scott stated while he could move the structures closer to the shoreline, he was hesitant to eliminate the breakwaters. Mr. Scott contended the marsh toe revetment would not suffice and asked for clarification of the staff recommendation.

Mrs. Easterbrook explained staff recommended moving the whole thing closer to the shore and decrease the size resulting in a smaller footprint.

Mr. Taylor stated he was only in favor of items A., B., and C. as depicted on submitted drawings.

Mrs. Willis requested clarification of the VIMS recommendation.

Ms. Karen Duhring, VIMS, explained her concern that a 10 ft. offset with a 48 ft gap between the structures would allow wave action behind the structures. While not a bad design, she recommended moving the closer to the edge and reducing the footprint.

On a motion by Mr. Armstead, seconded by Mr. Taylor, and carried by a unanimous vote, Application #2005-1551 was approved with staff recommendation to construct the breakwaters with a smaller footprint closer to the marsh edge and to minimize impacts to the vegetated wetlands to the maximum extent practicable, with revised drawings required showing the reduced structure and construction access. This approval is valid for a term of 18 months.

C. Betsy Schipani – Wetlands Application #2005-1643.

Chairman Smither read the applicant's proposal requesting to rebuild existing groins and install 100' of riprap revetment. The property for which the application is being made is located on Robinson Creek, Tax Map #19C-5-39. Staff then read the VIMS report for the project.

Mr. Jay Foster, 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 Mrs. Willis, seconded by Mr. Brooks, and carried by a unanimous vote, Application #2005-1643 was approved as submitted. This approval is valid for a term of 18 months.

D. Steve Saunders – Wetlands Application #2005-1736.

Chairman Smither read the applicant's proposal requesting to install five 60' timber groins, three with 10' T-spurs, and at least 60 cubic yards of beach nourishment. The property for which the application is being made is located on the Rappahannock River, Tax Map #2-1-4A. Staff then read the VIMS report for the project.

Mr. and Mrs. Saunders, applicants, were in attendance to represent the project.

Chairman Smither opened the public hearing.

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

Mrs. Saunders explained that as the shoreline had come inland through erosion, groins were proposed as a means of collecting sand and stabilizing the bank. Mr. Saunders stated he would install the groins and place sand in the first 2 groins.

Mrs. Easterbrook suggested that 3 groins should be installed initially to better stabilize and protect the bank.

Mr. Saunders agreed that he could install one on each end, and one in the middle during this phase of the project.

Chairman Smither commented that a cell would have to be installed to determine if this solution would work.

Mrs. Easterbrook expressed concern that if two were placed on the northern end, without sufficient sand flow, the corners would be left slightly exposed.

On a motion by Mr. Brooks, seconded by Mr. Taylor, and carried by a unanimous vote, Application #2005-1736 was approved for the original 5 groins with cell nourishment. This approval is valid for a term of 18 months.

E. Deltaville Marina – Wetlands Application #2005-1755.

Chairman Smither read the applicant's proposal requesting to upgrade the marina facility, extending A-dock 161' off an 80' T-extension from the existing dock with a 120' x 7' T-head, six 20' finger pier creating 14 slips, B-dock will be extended 140' with an 85' x 7' T-head, 8 finger piers creating 20 slips. The property for which the application is being made is located on Jackson Creek, Tax Map #41-58. Staff then read the VIMS report for the project.

Mr. Don Caskie, Bay Design Group, and Mr. John Steele, and Kevin Ruse, applicants, were in attendance to represent the project. Mr. Caskie stated that revisions were submitted depicting a total of 20 new slips.

Mr. Kevin Ruse explained that the marina is family owned and operated and undergoing Virginia Clean Marina Certification.

Chairman Smither opened the public hearing.

The following people spoke in opposition to the proposed project citing safety, environmental, and aesthetic concerns:

Mr. Chris Guedri, on behalf of the Jackson Creek Condominium Association

Mr. Jerry McMurtrie

Mr. Allen Harrow

Mr. Les Davis

Mr. Allen Crowe

Ms. Laurie Cough

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

Mrs. Easterbrook asked Mr. Neikirk to clarify the Board's jurisdiction.

Mr. Neikirk commented that the Board had made the decision to hear all commercial applications, although there were no direct impacts to wetlands between Mean Low and Mean High Water. Mr. Neikirk stated that comments expressed would be appropriate at the VMRC hearing, and requests for notification of the hearing would be honored. Mr. Neikirk further stated that the VMRC hearing would be scheduled after final revisions are reviewed.

Mr. Taylor asked if the applicant had considered shortening the pier length.

Mr. Caskie commented that in negotiations with the Army Corps of Engineers (ACOE) the pier addition had been shortened in order to maintain a 150' wide channel entrance.

Mr. Taylor stated he was concerned with environmental impacts to the Creek and suggested additionally shortening the pier.

Mrs. Willis agreed there were questions related to the environmental impacts, and suggested that the application be continued to allow time to review the revised drawings.

On a motion by Mr. Armstead, seconded by Mrs. Willis, and carried by a unanimous vote, Application #2005-1755 was continued until the October 11, 2005 hearing.

F. Isabell Horsley – Wetlands Application #2005-1855.

Chairman Smither read the applicant's proposal requesting to install 335' of riprap revetment with bank grading. The property for which the application is being made is located on the Piankatank River, Tax Map #44-3-23. Staff then read the VIMS report for the project.

Ms. Christine Breddy, agent, Gloucester Environmental, 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 a unanimous vote, Application #2005-1855 was approved as submitted. This approval is valid for a term of 18 months.

OLD BUSINESS

A. Notice to Comply – Charles Krumbien – Draft letter to Mr. Soberick requesting the status of the case and to try and resolve the matter.

Chairman Smither introduced Notice To Comply – Charles Krumbien. Chairman Smither asked if the Board desired to drop the issue or to draft a letter to Mr. Soberick, County Attorney, requesting the status of the case and to try and resolve the matter.

On a motion by Mr. Taylor, seconded by Mr Brooks, and carried by a unanimous vote, the Board voted to draft a letter to Mr. Soberick requesting the status of the case and to try and resolve the matter.

B. Wetlands Mitigation / Compensation Policy – Joint Work Session

Mr. Higgins stated he and Chairman Smither would attend the October 4, 2005 meeting of the Board of Supervisors to provide information related to Revisions to the Wetlands Mitigation-Compensation Policy and

Supplemental Guidelines: Regulation 4 VAC 20-390-10 Et. Seq. Mr. Higgins commented he favored creating a wetlands bank within the County, which would keep funds within the County. Mr. Higgins commented that if a wetlands bank could not be created right away, perhaps a fee could be charged “in lieu of” for wetland mitigation.

Chairman Smither commented that in accordance with VIMS reports, wetlands impacts would have to be made up in some way.

Mr. Neikirk explained that the Board could collect “in lieu of fees” and create a bank in the future.

Mr. Higgins suggested providing the Board of Supervisors with various options to comply with the new Wetlands Mitigation Compensation Policy.

After further discussion, Chairman Smither proposed meeting with Staff prior to the October 4, 2005 Board of Supervisors meeting.

New Business

Adjournment

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

Respectfully submitted,

Wetlands Board Chair

Date