

Middlesex County Wetlands Board Minutes

April 11, 2006

Call to Order

The April 11, 2006 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: Amy Easterbrook, Planner
 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 March 14, 2006 meeting. On a motion by Mr. Taylor, and a second by Mr. Miller, 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. Steven Dubatts - Application #2006-0273.

Chairman Smither read the applicant's proposal requesting to install an 81' vinyl bulkhead with a 6' return wall immediately in front of a failed timber bulkhead. This project is located on the Rappahannock River, at Tax Map # 28-9. Staff then read the VIMS report for the project.

Mr. Joey Scott, agent, was in attendance to represent the project. Mr. Scott stated that the backfill source would be identified and noted his suggestion that the contractor contact the Wetlands office to discuss plans for the four adjoining projects.

Chairman Smither opened the public hearing.

Mr. Harry Madsen, adjoining property owner, spoke in support of the project, and asked the Board not to put restrictions on the proposed projects.

Mrs. Easterbrook commented that declaring the source of backfill and removing debris was normal procedure during the application process. She noted that Application #2006-0273 was contiguous to the following three applications on the agenda, but had to be considered separately.

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

On a motion by Mr. Armstead, seconded by Mr. Miller, and carried by unanimous vote, Application #2006-0273 was approved with staff recommendation that derelict structures, bricks, asphalt and other solid waste be removed where possible and that the source and type of backfill be identified. This approval is valid for a term of 18 months.

B. John Harris – Wetlands Application #2006-0277.

Chairman Smither read the applicant's proposal requesting to install an 84' vinyl bulkhead with a 6' return wall in front of an existing failed bulkhead and replace an 80' groin with a 48' low-profile groin. The property for which the application is being made is located on the Rappahannock River, Tax Map #28-12. Staff then read the VIMS report for the project.

Mr. Joey Scott, 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. Armstead, and carried by a unanimous vote, Application #2006-0277 was approved with staff recommendation that derelict structures, bricks, asphalt and other solid waste be removed where possible and that the source and type of backfill be identified. This approval is valid for a term of 18 months.

C. Mark Bowker - Wetlands Application #2006-0278.

Chairman Smither read the applicant's proposal requesting to install an 85' vinyl bulkhead with 2 – 6' return walls in front of an existing failed bulkhead and replace a 66' groin with a 48' low-profile groin. The property for which the application is being made is located on the Rappahannock River, Tax Map #28-11. Staff then read the VIMS report for the project.

Mr. Joey Scott, 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. Brooks, and carried by unanimous vote, Application #2005-0278 was approved as with staff recommendation that derelict structures, bricks, asphalt and other solid waste be removed where possible and that the source and type of backfill be identified. This approval is valid for a term of 18 months.

D. Kevin Heunnekens - Wetlands Application #2006-0279.

Chairman Smither read the applicant's proposal requesting to install an 85' vinyl bulkhead with 2 – 6' return walls in front of an existing failed bulkhead and replace an 80' groin with a 48' low-profile groin. The property for which the application is being made is located on the Rappahannock River, Tax Map #28-10. Staff then read the VIMS report for the project.

Mr. Joey Scott, 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. Brooks, and carried by unanimous vote, Application #2006-0279 was approved as submitted. This approval is valid for a term of 18 months.

E. Perry Jones - Wetlands Application #2006-0413.

Chairman Smither read the applicant's proposal requesting to install 150' of bank stabilization using an engineered design consisting of wire frames and geotextile fabrics with a riprap toe and install 45' of riprap revetment. The property for which the application is being made is located on Sturgeon Creek, Tax Map #40-27-10. Staff then read the VIMS report for the project.

Mr. Paul Smith, 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.

Chairman Smither asked if reducing the size of stone to Class I, as recommended by VIMS, would be wise.

Mr. Smith explained that he preferred to use a combination of Class I and II stones to provide better protection from severe weather.

On a motion by Mr. Miller, seconded by Mr. Armstead, and carried by unanimous vote, Application #2006-0413 was approved with the recommendation to sprig the revetment with native grasses and use a mix of Class I and Class II stones. This approval is valid for a term of 18 months.

F. Cecil B. Campbell - Wetlands Application #2006-0532.

Chairman Smither read the applicant's proposal requesting to remove the existing bulkhead and install 185' of new vinyl bulkhead. The property for which the application is being made is located on the Piankatank River, Tax Map #37A-6-187. Staff then read the VIMS report for the project.

Ms. Christine Breddy, agent, was in attendance to represent the project. She explained that the owner desired to straighten the bow of the old bulkhead, and the project would be done in phases.

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

On a motion by Mr. Brooks, seconded by Mr. Taylor, and carried by unanimous vote, Application #2006-0532 was approved as submitted. This approval is valid for a term of 18 months.

Old Business

A. Tri-County Farms c/o Glenn Bunch – Wetlands Application #2005-2246.

Chairman Smither read the applicant's proposal requesting to extend the existing jetty an additional 75' for a total length of 150' for marina development. 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, 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.

Chairman Smither commented that revised drawings had been submitted to meet VIMS' requirements.

Mr. Taylor noted that he was hesitant to approve the application and expressed concern that the proposed project would not hold up in severe weather. Mr. Taylor stated that the Board had not had enough time to study the proposal.

On a motion by Mr. Miller, seconded by Mr. Armstead, and carried by unanimous vote, Application #2005-2246 was approved as submitted. This approval is valid for a term of 18 months.

B. Marvin Saunders – Wetlands Application #2006-0285

Chairman Smither read the applicant's proposal requesting to replace 155' of existing, failing bulkhead. The property for which the application is being made is located on Robinson Creek, Tax Map # 19C-1B-5. Staff explained that the applicant was unable to attend the hearing due to medical reasons, and had sent acknowledgement of his agreement to plant a 6-inch strip across the marsh behind the existing marsh grass and would comply with the Board's decision.

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

Mr. Taylor expressed concern about the equipment to be used for ditch digging.

Mrs. Easterbrook explained that the proposed trench would be 1 ft. wide, and just deep enough for high tide to go behind the existing marsh.

Chairman Smither commented that the applicant was fortunate to have the option of creating a small wetland area in order to meet mitigation impacts, as in-lieu of fees have not been adopted by the Board of Supervisors.

Mr. Neikirk suggested spartina patens as a suitable plant for the trench area.

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, Application #2006-0285 was approved with revised drawings and a follow-up site visit upon completion of the project. This approval is valid for a term of 18 months.

New Business

A. Notice to Comply – James Lewis – Notice to Comply issued on March 27, 2006 for the construction of an unauthorized bulkhead.

Chairman Smither introduced Notice to Comply – James Lewis – for the construction of an unauthorized bulkhead. Staff presented photographs of the site and recommended the Board find the construction of the unauthorized bulkhead a violation and request that Mr. Lewis, or his agent, attend the next meeting, May 9, 2006.

Mr. Brian Fletcher, agent, was in attendance and stated that he was not defending Mr. Lewis, but was hired to clean up the site and bring it into compliance.

Chairman Smither stated that the Board must determine whether there was a violation, after which VIMS would do an impact study and a matrix would be created prior to assessing a civil penalty.

The Board agreed unanimously by consensus that James Lewis' property was in violation for the construction of an unauthorized bulkhead and he or his agent would be requested to attend the next meeting, May 9, 2006.

B. Administrative

Chairman Smither stated that during budget meetings, the Board of Supervisors considered eliminating the Wetlands Board from the County budget to save on costs of administering the program. Chairman Smither stated that public comments could be made at the Public Hearing on April 18, 2006, and the Board of Supervisors would meet on April 25, 2006 to adopt the budget. He explained that if the Wetlands Board were not funded, a hearing would be required to rescind the Wetlands Ordinance. Chairman Smither further commented that he would speak at the Public Hearing in defense of continued funding for the Wetlands Board.

Mr. Neikirk commented that State Wetlands laws allow for local enforcement. He explained that if a locality gives up local authorization, VMRC would manage the applications, and public hearings would be held in Newport News. Mr. Neikirk explained that currently, decisions of the Wetlands Board may be appealed to

VMRC but, without a local Board, appeals must be taken to Court. Mr. Neikirk further noted that the Wetlands Board processes many applications and he was not sure how VMRC would assume the role.

Chairman Smither expressed concern that without a local Wetlands Board, citizens would lose the right of appeal, be inconvenienced by having to travel to Newport News for hearings, experience delays in approvals, and without local staff, there would be no inspections and numerous violations.

Mr. Taylor agreed that citizens would be greatly inconvenienced if there were no local Wetlands Board and he encouraged the Board to attend the Public Hearing.

Mr. Brooks agreed that there should be a local Wetlands Board with staff and further stated that the administrative costs were small compared to the potential damage to the environment without local enforcement.

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,

Wetlands Board Chair

Date