

## County Wetlands Board Minutes

January 8, 2008

### **Election**

Mr. Kraegel opened nominations for Chairman of the Middlesex County Wetlands Board. Mr. Hawksworth nominated Mr. Smither to be president for the new year. Mr. Brooks seconded this nomination and the Wetlands Board unanimously approved this nomination. Next, Chairman Smither opened nomination for Vice-Chairman. Mr. Armstead nominated Mr. Hawksworth, and this nomination was seconded by Mr. Taylor. The nomination was then unanimously approved by the Wetlands Board.

### **Call to Order**

The January 8, 2008 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. Tom Hawksworth – Vice Chairman  
                      Mr. Woodson Armstead  
                      Mr. Archie Brooks  
                      Mr. M. Dale Taylor

Staff present:     Matt Kraegel, Planner

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

### **Minutes**

The Board considered the minutes of the December 11, 2007 meeting. On a motion by Mr. Taylor, and a second by Mr. Hawksworth, 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. Betty Holbert - Application # 2007-0543

Chairman Smither read the applicant's proposal requesting to install 60' of bulkhead in front of an existing bulkhead, as well as install a new 40' return with a 5' wing on the end. The property for which the application is being made is located on Locklies Creek at Tax Map # 30E-2-5. Staff then read the VIMS report for the project.

Terry Emerson was present to represent the project.

Chairman Smither asked Mr. Emerson if he had any question or comments about the report.

Mr. Emerson said that he was ready to go ahead with the project as recommended.

Chairman Smither opened the public hearing.

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

Mr. Hawksworth asked if Mr. Emerson could put the new bulkhead in the existing footprint and take the old one out.

Mr. Emerson said that he could take the existing bulkhead out; the only issue was an added cost to Ms. Holbert.

Mr. Hawksworth then asked if Mr. Emerson could move the 40' section of bulkhead behind the wetlands.

Mr. Emerson stated that he could.

On a motion by Mr. Hawksworth, seconded by Mr. Taylor, and carried by unanimous vote, Application #2007-0543 was approved in accordance with staff recommendation that: 1) Remove and replace the existing 60' bulkhead in the same footprint. 2) Move the proposed 40' section behind the marsh 1' to avoid wetlands impacts. 3) Remove the brick rubble on the beach. 4) Shape the bank in a manner that will allow the bulkhead to be installed without destroying wetlands vegetation. This approval is valid for a term of 18 months.

#### B. Paul Shelor – Application # 2007-2503

Chairman Smither read the applicant's proposal requesting to install a 12' x 40' boat ramp. The property for which the application is being made is located on the Chesapeake Bay at Tax Map # 41-41-11. Staff then read the VIMS report for the project.

Carrissa Agnese was present to represent the project.

Chairman Smither asked if Mrs. Agnese had any questions or comments about the report.

Mrs. Agnese stated that Mr. Shelor has already contacted Dominion Power. She also stated that there is already a boat ramp on the other side of the cove and they are not having any problems with their ramp. In addition Mrs. Agnese said that Mr. Shelor will fix any issues that result and will put back the rip rap if necessary.

Chariman Smither then opened the public hearing.

Edwin Bryce, an adjacent property owner, came up to speak.

Mr. Bryce stated his objection to the project and mentioned several reasons why. Mr. Bryce pointed out the other ramp in the cove was protected by the cove and that the area Mr. Shelor proposed to build his boat ramp is directly exposed to the bay. He also mentioned that the storms that he has seen pose a serious threat to the properties in the area. He then stated that the threat would be increased if the boat ramp is installed in the proposed location. Mr. Bryce also pointed out that the bottom of the water in that area was owned by a Mr. Andrews.

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

Mr. Hawksworth then asked Mrs. Agnese what will be used around the sides of the ramp.

Mrs. Agnese stated that the rip rap formerly in that location would be used on the sides of the ramp.

Mr. Taylor then asked Mr. Neikirk who owns the property that Mr. Bryce speaks of.

Mr. Neikirk stated that the State assumes jurisdiction until informed otherwise by a court.

On a motion by Mr. Hawksworth, seconded by Mr. Armstead, and carried by unanimous vote, Application #2007-2503 was continued until the February 12, 2008 meeting, to allow time for more consideration.

C. Bush Park Campgrounds - # 2007-2548

This application was continued unanimously, due to the fact that there were no stakes in the water for the proposed commercial pier.

D. Anderson Soyars – Application # 2007- 2559

Chairman Smither read the applicant's proposal requesting to construct 265' of rip rap revetment (class II stone) channel ward of a failing bulkhead. The property for which the application is being made is located on the Piankattank River at Tax Map # 44-2-18. Staff then read the VIMS report for the project.

Mr. Scott was present to represent the project.

Chairman Smither asked Mr. Scott if he had any question or comments about the report.

Mr. Scott stated that the bulkhead was in OK condition now but the condition could become much worse.

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. Armstead and carried by unanimous vote, Appplication #2007-2559 was approved as submitted. This approval is valid for a term of 18 months.

E. Michael Parker – #2007- 2605

Chairman Smither read the applicant's request to construct 212' of marsh toe structure with associated back filling and planting. The property for which this application is being made is located on Hunting Creek at Tax Map # 40-109-5. Staff then read the VIMS report for the project.

Ms. Karla Havens was present to represent the project.

Chaimarn Smither asked Ms. Havens if she had any questions or comments about the report.

Ms. Havens stated that she will submit a new drawing, planting plan, and that the rocks are going to be placed by hand.

Chairman Smither opened the public hearing.

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

On a motion by Mr. Hawksworth, seconded by Mr. Armstead and carried by unanimous vote, Appplication #2007-2605 was approved as recommended that: 1)a revised drawing showing the access path to the project must be submitted. 2) Clean, coarse-grained sand will be used as backfill. 3) The existing marsh will be avoided during construction. 4) A planting plan must be submitted. 5) Overhanging trees will be pruned if requested by wetlands staff. 6) Regular inspections will be allowed until planted marsh is healthy. This approval is valid for a term of 18 months.

### **Show Cause Hearing**

Note: Applications 2007-2624, 2007-2625, 2007-2626, and 2007-2627 were heard at the same time considering that these properties are adjacent to one another and the project ran across all four properties.

F. George Wagner – Application # 2007-2624

G. Gary Massie – Application # 2007-2625

H. Thomas Jessee – Application # 2007-2626

I. Jerome Roebuck – Application # 2007-2627

Chairman Smither read the applicants' request to install a 125' x9' quarry stone revetment on a 1:1.5 slope. The properties for which these applications are being made are located on the Rappahannock River at Tax Map #40-86-8, 40-86-6, 40-86-5, and 40-86-7. Staff then read the VIMS report for the project.

Jay Foster, Gary Massie, and George Wagner were present to represent the project.

Chairman Smither asked them if they had any questions or comments about the report.

Chairman Smither opened the public hearing.

Jay Foster stated that he has been doing work under Mr. Calis for 10 years, and that Mr. Calis himself has been doing this kind of work for 35 years.

Jay also stated that there should be some kind of way to know that permits are needed for repair, and said that he had made an honest mistake.

Next, Mr. Wagner gave a history of the property and permits he had throughout the years.

Mr. Massie also gave a history of the property and permits he had throughout the years.

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

However, the Wetlands Board had already determined that there were no existing permits that were valid or unexpired. There was no new evidence of anything that staff or the Board was not already aware of.

On a motion by Mr. Taylor, seconded by Mr. Hawksworth, and carried by unanimous vote, Applications 2007-2624, 2007-2625, 2007-2626, and 2007-2627 were approved as recommended that: 1) The fee for the after-the-fact permit is paid (\$550). 2) A civil charge of \$300 is paid by both the property owner and contractor or possible criminal charges are resolved against both the property owner and the contractor. 3) A RPA modification permit is issued before work can start again. This approval is valid for a term of 18 months.

### **New Business**

A. Doris Greene – Violation – permit can be issued once a JPA is submitted.

The Wetlands Board reviewed pictures of a rip rap revetment that had been constructed in their jurisdiction without a Wetlands Permit. Staff also read the VIMS report.

Ms. Doris Greene and Mr. Mark Giles were present to represent the project.

Ms Greene stated how Mark Giles, the man doing her work, had told her he had a permit for the work being done on her property.

Mr Giles stated how that man he designated to get the proper permits had gone to jail and in turn the application was never submitted.

Mr. Kraegel stated how he had told Mr. Giles in person several days before the illegal work was discovered that he needed permits for various types of work.

On a motion by Mr. Hawksworth, seconded by Mr. Taylor, and carried by unanimous vote the work was considered a violation.

On a motion by Mr. Taylor, seconded by Mr. Brooks, and carried by unanimous vote, a civil charge of \$250 was issued against both Doris Greene and Mark Giles. This case is going to be continued until the February 12, 2008 meeting, to await a JPA. Once a JPA is received that project may be approved, and a permit may be granted at a cost of \$550.

B. Larry Julian – Violation

The Wetlands Board reviewed pictures of concrete that had been dumped on a 12' x 12' area of wetlands. Staff also read the VIMS report.

Mr. Larry Julian was present to represent the violation.

The Board asked Mr. Julian what had happened.

Mr. Julian stated that he dumped extra concrete left over from a sidewalk on his property at the end of the road on a deteriorating boat ramp.

Jimmy Mackay then came up to speak. He stated that there was never "boat ramp" there; however, there was a lot of bricks and other stuff that shouldn't be there. He also asked if it was ethical to drive over wetlands to launch a boat.

Mr. Neikirk responded that it was fine to cross over wetlands with a truck as long as the vegetation is not destroyed.

Next, Mr. W.J. Council came up and asked if the area was a ramp or not and who owned this property.

Mr. Taylor responded saying that the property was owned by his parents and was never to be sold. Therefore technically the property is deeded to Mr. Taylor. Mr. Taylor said this land was not officially used as a boat ramp.

On a motion by Mr. Hawksworth, seconded by Mr. Brooks, and carried by unanimous vote, this case is considered a violation.

On a motion by Mr. Hawksworth, seconded by Mr. Brooks, and carried by unanimous vote, a civil charge of \$250 was issued against Mr. Julian and the concrete was ordered to be removed.

C. Krumbein – A warrant/ summons was taken out on Friday Decmeber 28, 2007. The court date is set for February 4, 2008 at 11:30 AM.

D. Letter was submitted to Board of Supervisors regarding fees/fines.

**Adjournment**

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

Respectfully submitted,

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Wetlands Board Chair

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Date