

Middlesex County Wetlands Board

Minutes

November 12, 2008

Call to Order

The November 12, 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 Historic Courthouse, Saluda, Virginia.

Present: J. Miller Smither – Chairman
Tom Hawksworth – Vice Chairman
Archie Brooks
Dale Taylor
Woodson Armstead

Staff present: John Halpin, Wetlands Planner

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

Minutes

The Board considered the minutes of the October 14, 2008 meeting. On a motion by Mr. Hawksworth and seconded by Mr. Armstead, the minutes were approved unanimously.

Public Hearings

The following applications were considered by the Board:

A. Porpoise Cove Marina – Application No. 2002-1354

The application to reactivate Wetlands Permit 2002-1354 for the request to redevelop an existing marina facility to include: replacing 160' of bulkhead; remove existing boathouses and piers; dredge 600 cu. yds.; construct 18 covered slips and 10 uncovered slips (total existing slips 65, total proposed slips 56). The proposed project located on Fishing Bay, at Tax Map Parcel Nos. 45-4-B-15 & 16 was heard before the board.

Mr. Halpin read the VIMS report and then gave the staff recommendations that staff has the understanding that there has been some difficulty in meeting requirements of other permitting authorities to be able to move ahead with this project. The Board should seek the understanding of the owner that this will be the final renewal/extension of this permit. If circumstances continue to prevent the completion of this permit before expiration, a new application will have to be submitted to the Middlesex County Wetlands Board and Virginia Marine Resources Commission.

Mr. LeRoy Holt was present as the owner.

Chairman Smither opened the hearing for comments from the public.

The board recognized Mr. Halpin, who read into the record two letters, received from Barbara M. Rose, an Adjoining Property Owner who could not be present for the hearing; and Gordon W. Wallace, Jr., an Adjoining Property Owner who also could not be present at the hearing. Both letters were received in the Wetlands Office by electronic means on November 11, 2008, and both letters spoke in support of Mr. Holt's reactivation of the Wetlands Permit.

There being no further comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

There was a period of time for questions and answers between the board and Mr. Holt, concerning the project.

There being no further questions or comments from the board, the motion to approve the application with staff recommendations was made by Mr. Hawksworth, seconded by Mr. Armstead, and carried unanimously. The permit will be good for 18 months, expiring May 12, 2010.

B. Sturgeon Creek Estates Association – Application No. 2008-1781

The application to place 280 linear feet of 8" diameter oyster bags along shoreline to protect native growth from wave impact erosion. The proposed project located on the Sturgeon Creek, Tax Map Parcel No. 40-27-5A was heard before the board.

Mr. Halpin read the VIMS report and then gave the staff recommendations that the proposed area to the west side of the north beach, as depicted in the drawings and stakes marked at the site, would impact an area of wetlands grasses. This area of the proposal would have to be reconfigured to be outside of the wetlands grass area. During the Wetlands Board site visit, it was noted that there is a very strong fetch on the north side of the project. Any bags placed on the north side will be at a much higher risk of breaking loose. Where this would not impact the oyster shells much, a mesh bag that breaks apart and becomes flotsam could become a danger to fish and other wildlife, by the increased chance of entanglement.

Mr. Don Abernathy was present as the association representative.

Chairman Smither opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

There was a period of time for questions and answers between the board, staff and Mr. Abernathy, concerning the project.

There being no further questions or comments from the board, the motion to approve the application, amended that the bags must be staked, and checked every two months for deterioration was made by Mr. Hawksworth, seconded by Mr. Brooks and approved unanimously. The permit will be good for 18 months, expiring May 12, 2010.

C. Tansill Johnson – Application No. 2008-1787

The after-the fact application to add 5' x 44' of rip rap with filter cloth and fill behind with 3 cu. yds. of clean sand along eroding shoreline. The proposed project located on Rappahannock River, Tax Map Parcel No. 20-13 & 14 was heard before the board.

Mr. Halpin read the VIMS report and then gave the staff recommendations that the board should consider the application for approval as submitted. The Wetlands Board should seek the understanding of the applicant, that any activity done within the subaqueous, tidal and non-tidal wetlands area, or within the 100' riparian buffer must have an approved permit from the permitting authority before proceeding. If you have any questions as to whether something may require a permit, please feel free to call the Middlesex County Wetlands Office.

Mrs. Tansill Johnson was present as the owner.

Chairman Smither opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

There being no further questions or comments from the board, the motion to approve the application with staff recommendations was made by Mr. Taylor, seconded by Mr. Brooks and carried unanimously. The permit will be good for 18 months, expiring May 12, 2010.

D. Fishing Bay Yacht Club – Application No. 2008-1806

The application to install new vinyl seawall material in front of existing bulkhead. The proposed project located on Jackson Creek, Tax Map Parcel No. 41-66 & 67 was heard before the board.

Mr. Halpin read the VIMS report and then gave the staff recommendations that staff recommends consideration of the application as submitted.

Mr. David Hinckle was present as the club representative.

Chairman Smither opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

There was a period of time for questions and answers between the board and Mr. David Hinckle, concerning the project.

There being no further questions or comments from the board, the motion to approve the application as submitted was made by Mr. Armstead, seconded by Mr. Hawksworth and carried unanimously. The permit will be good for 18 months, expiring May 12, 2010.

E. Mary Francisco – 2008-1826

The application to repair existing 100' of rip rap by adding stone to the footprint; and install an additional 4' x 30' of rip rap to the existing length of rip rap. The proposed project located on Sturgeon Creek, Tax Map Parcel No. 40-26-2A was heard before the board.

Mr. Halpin read the VIMS report and then gave the staff recommendations that the board should consider that the application asks for a footprint that will be 4' wide, however it has been noted that the cross section drawing shows a footprint that is 6' wide. Staff, in concurrence with VIMS and VMRC, the footprint for this project can be no more than 4' wide, or it will encroach on established wetlands vegetation.

Mr. Jay Foster was present as the agent.

Chairman Smither opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

There was a period of time for questions and answers between the board and Mr. David Hinckle, concerning the project.

There being no further questions or comments from the board, the motion to approve the application, with staff recommendations that the footprint be no wider than four feet was made by Mr. Taylor, seconded by Mr. Brooks and carried unanimously. The permit will be good for 18 months, expiring May 12, 2010.

F. Mack Hudson – 2008-1827

The application to install a 60' rip rap revetment with the toe at the existing timber wall; remove the wall and groin and replace the groin westward to the property line. The proposed project located on the Rappahannock River, Tax Map Parcel No. 39A-3-9 was heard before the board.

Mr. Halpin read the VIMS report and then gave the staff recommendations that staff recommends consideration of the application as submitted.

Mr. Jay Foster was present as the agent.

Chairman Smither opened the hearing for comments from the public.

The board recognized Mr. Dennis McNamee, as an individual he was allotted three minutes to speak. Mr. McNamee, as the adjoining property owner to the west, stated his concerns for the re-grading of the hill, and the movement of the groin to the property line.

Mr. Halpin informed Mr. McNamee, that the application had been changed from the way that it was advertised, and that the re-grading of the hill had been removed from the application, but the change in the groin replacement was still a part of the application.

Mr. Chip Neikirk addressed the board and stated that VMRC prefers groins that are offset from property lines.

The board recognized Mr. Mack Hudson, as an individual he was allotted three minutes to speak.

The board recognized Mrs. Janie Hudson, as an individual she was allotted three minutes to speak.

There being no further comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

There was a period of time for questions and answers between the board, Mr. Halpin, staff, Mr. Chip Neikirk, VMRC, and Mr. Jay Foster, concerning the project.

There being no further questions or comments from the board, the motion to approve the application as submitted was made by Mr. Brooks, seconded by Mr. Taylor and carried unanimously. The permit will be good for 18 months, expiring May 12, 2010.

G. Charles W. Faulkner, Sr. – Application No. 2008-1896

The application to remove and replace last 16' and repair to 6' of existing jetty-1; remove and replace last 40' of existing jetty-2; repair last 16' of existing jetty-3; remove and replace 32' T-spur on jetty-3. The proposed project located on the Rappahannock River, Tax Map Parcel No. 29-2 was heard before the board.

Mr. Halpin read the VIMS report and then gave the staff recommendations that after reviewing the condition of the shoreline, the groins have been working well at this site, but are now in need of repair/replacement. Staff recommends consideration of the application as submitted.

Mr. J. D. Davis was present as the agent; Mr. Charles Faulkner was present as the owner.

Chairman Smither opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

There was a period of time for questions and answers between the board and Mr. J. D. Davis, concerning the project.

There being no further questions or comments from the board, the motion to approve the application as submitted was made by Mr. Taylor, seconded by Mr. Armstead and carried unanimously. The permit will be good for 18 months, expiring May 12, 2010.

H. Jane Bernhard – Application No. 2008-1908

The application to replace existing 35' of bulkhead with new timber bulkhead in the same footprint; replace existing 24' and 30' low profile groins in the same footprint; and install new 5' return wall; and add 90' of 16" Coir Logs for erosion protection. The proposed project located on Fishing Bay, Tax Map Parcel No. 45-7-E-3 was heard before the board.

Mr. Halpin read the VIMS report and then gave the staff recommendations that staff recommends consideration of the application as submitted.

Ms. Carissa Agnese was present as the agent.

Chairman Smither opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

There was a period of time for questions and answers between the board and Ms. Carissa Agnese, concerning the project.

There being no further questions or comments from the board, the motion to approve the application as submitted was made by Mr. Armstead, seconded by Mr. Hawksworth and carried unanimously. The permit will be good for 18 months, expiring May 12, 2010.

I. Gordon Cutler – Application No. 2008-1941

The application to construct 462 linear feet of rip rap revetment along eroding shoreline. The proposed project located on Moore Creek, Tax Map Parcel No. 45-118B was heard before the board.

Mr. Halpin read the VIMS report and then gave the staff recommendations that staff recommends consideration of the application as submitted. Staff noted during site visits that there are healthy areas of wetlands vegetation at this site, where sufficient sunlight can reach the shoreline. Staff recommends that the home owner consider a plan for woodlot maintenance, with permit, in the RPA; and then instituting a planting plan to promote the growth of wetlands vegetation in front of the rip rap project.

Mr. Jay Foster was present as the agent.

Chairman Smither opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

There was a period of time for questions and answers between the board and Mr. Jay Foster, concerning the project.

There being no further questions or comments from the board, the motion to approve the application, with staff recommendations was made by Mr. Hawksworth, seconded by Mr. Armstead and carried unanimously. The permit will be good for 18 months, expiring May 12, 2010.

J. Robert Mannell – Application No. 2008-1955

The application to remove all debris from existing failing cement block wall and groin, and replace with 40' low profile groin and install a 100' C-Loc bulkhead directly in front of the existing bulkhead. The proposed project located on the Rappahannock River, Tax Map Parcel No. 41-18-2 was heard before the board.

Mr. Halpin read the VIMS report and then gave the staff recommendations that staff recommends consideration of the application as submitted, with the exception of the channelward height of the low profile groin needs to be changed to a height no higher than mean low water.

Mr. Brian Fletcher was present as the agent.

Chairman Smither opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

There was a period of time for questions and answers between the board and Mr. Brian Fletcher, concerning the project. Mr. Brian Fletcher stated to the board, that if approved, he would turn in revised drawings for the channelward height of the low profile groin today.

There being no further questions or comments from the board, the motion to approve the application, with staff recommendations was made by Mr. Hawksworth, seconded by Mr. Armstead and carried unanimously. The permit will be good for 18 months, expiring May 12, 2010.

Old Business

None.

New Business

A. Business matters between the Wetlands Board and Wetlands Staff

The chairman stated that he would like to have closure on the cases of Mr. Krumbein and Mr. Mark Giles before the end of the year.

Staff reported to the chairman that we are working on settling a date for a conference with all involved in The Mr. Krumbein matter. In the matter of Mr. Mark Giles, staff has determined that he has moved, and has been unable to determine a new address or phone number for Mr. Giles.

Adjournment

With no further business to discuss, the motion to adjourn the meeting was made by Mr. Armstead, seconded by Mr. Taylor and carried unanimously.

Respectfully submitted,

Wetlands Board Chair

Date