

## County Wetlands Board Minutes

May 13, 2008

### **Call to Order**

The May 13, 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  
Tom Hawksworth – Vice Chairman  
Mr. Woodson Armstead  
Mr. Dale Taylor  
Mrs. Mary Ann Willis

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 April 8, 2008 meeting. Corrections were noted to replace “Chairman Smither” with “Vice Chairman Hawksworth” in discussion of Application #2008-0451 because Mr. Smither had left the meeting. On a motion by Mr. Taylor and a second by Mr. Hawksworth the minutes were approved unanimously as corrected.

### **Public Hearing**

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

#### A. Gerald Speeks – Application #2008-0596

Chairman Smither read the applicant's proposal requesting to install 192' of vinyl navy bulkhead directly in front of the existing bulkhead as well as install 152' of vinyl freestanding bulkhead directly in front of the existing bulkhead. The property for which the application is being made is located on Jackson Creek at Tax Map # 40-38-4. Staff then read the VIMS report for the project.

Michelle Meredith was present to represent the project. Ms. Meredith noted that the return wall can go in the same footprint behind the wetlands.

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

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

Mr. Hawksworth stated that he would like for the return to be placed in the same place/footprint. The motion to approve Application #2008-0596 with the following conditions was made by Mr. Hawksworth, seconded by Mrs. Willis and carried unanimously: (1) the bulkhead is to be installed 2” from the existing pilings and (2) the bulkhead is to be backfilled with clean sand. This approval is granted for a period of 18 months.

B. Waterview Landing LLC. – Application #2008-0534

Chairman Smither read the applicant's proposal requesting to install a new community pier 8' wide x 433' long with a 60 x 6' "T" head as well as 18 wet slips.

Cory Gray was present to represent the project.

Chairman Smither opened the public hearing.

Russell Prichard, \_\_\_\_\_.

Robert Gary, \_\_\_\_\_

Harper Alexander and Randy Revercomb expressed concerns about the environmental impacts of the application.

Steve \_\_\_\_\_

Bob Paxton – needs to be restrictions in the deeded access to the pier and slips that will limit the number of boats allowed. Also, who would maintain the pier and the proposed dredged channel? This is a gray area when it comes to community property and community use. This is a pristine creek and environment and currently a great environment for bald eagles. Mr. Paxton also asked to be shown the 12 waterfront access lots that can be created "by right". The spoil site needs to be enlarged to accommodate future dredgings. Why is a bathhouse required if the proposed slips are tied to proposed lots.

As there were no further comments regarding the proposed application, Chairman Smither closed this portion of the public comment period. Mr. Smither explained that the project was not marked before the members conducted their site visit the week before. This is a requirement of the applicant. Although some portions of the project were marked while the members were on site, it is a policy of the Board that applications not marked are continued for another month. Also, it is a policy of the Board that when there is significant opposition to a project, an additional month is taken to allow the members to process all information received. The motion to continue discussion of the application to the June 10 meeting was made by Mr. Armstead, seconded by Mr. Taylor and carried unanimously.

C. Chuck Rao – Application #2008-0569

Chairman Smither read the applicant's proposal requesting to add 254 tons of armor stone to the existing rip rap revetment along 286' of water frontage. The property for which the application is being made is located on the Rappahannock River at Tax Map #19C-5-25. Staff then read the VIMS report for the project.

Michele Meredith was present to represent the project. Ms. Meredith stated that the rock is going on the same footprint. Some of the smaller stones would be removed and replaced with armor hold the bank. There would be no channelward encroachment. A drawing can be submitted showing the toe being put in at the bottom and the level of stone at 6'. Basically the rock starts where the pier starts.

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 Mrs. Willis, and carried by unanimous vote, Application #2008-0569 was approved as follows: 1) a revised drawing is to be submitted showing benchmarks to document where exactly the stone is being placed and whether there will be an apron or the toe will be dug in, and (2) the added stone should not encroach channelward of the existing footprint of stone. This approval is valid for a term of 18 months.

D. Walden's Marina – Application #2008-0531

Chairman Smither read the applicant's proposal requesting to replace an existing 480' long bulkhead with a 480' x 6' high bulkhead 1' landward of the existing bulkhead.. The property for which the application is being made is located on Broad Creek at Tax Map 41-112. Staff then read the VIMS report for the project.

Mark Plakas, operator of Walden's Marina was present to represent the project. Mr. Plakas noted that the correct Tax Map Number would be 41-111. Mr. Plakas stated that this replacement bulkhead is the first phase of his project. He will be making another application to support the roof the existing bulkhead on the new bulkhead and demolishing and re-building the boathouse.

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

On a motion by Mr. Hawksworth, seconded by Mr. Armstead, and carried by unanimous vote, Application #2008-0531 was approved with staff recommendations as follows: (1) geotextile material must be between any digging and the water; (2) demolition debris must be removed from the water and disposed of in an approved upland location; (3) a revised drawing showing the exact placement of the new bulkhead with benchmarks. This approval is valid for a term of 18 months.

#### E. Jamison Cove Townhouses – Application #2008-0545

Chairman Smither read the applicant's proposal requesting to remove the existing pier and install a 6' wide x 48' community pier with a 20' x 10' "L" head and a 5' x 10' step down. The property for which the application is being made is located on Jamison Cove at Tax Map 20A-36B. The proposed pier is in the same location, however additional channelward length is proposed to reach water naturally deep enough for navigation by small boats, kayaks, and canoes. Staff recommended that the pier must be 4' above wetlands and only 5' wide over the tidal area, rather than the 6' proposed. Staff then read the VIMS report for the project.

Joey Scott was present to represent the request. Mr. Scott stated that he had no problem with reducing the width of the proposed pier.

Chairman Smither opened the public hearing.

Brenda Wiley, one of the property owners within the development, spoke in support of the application, as the existing pier is unsafe. There being no further comments from the public, the hearing was closed.

Mr. Hawksworth commented that the project was not marked when the Board made their site visit. Mr. Scott replied that he was under the understanding that the Board was most concerned with where a pier would cross wetlands, and as the proposed application will be in the same location, he felt it was not necessary to mark it. VMRC did not request marking of the outward alignment. Mr. Scott stated that he would mark the site if necessary. For consistency purposes, members agreed that the project should be marked. Mr. Scott requested that action be tabled until next month and he would mark the project. The motion to table action until the June 10<sup>th</sup> meeting was made by Mr. Taylor, seconded by Mrs. Willis and carried unanimously.

#### F. Jane A. Hall – Application #2008-0485

Mr. Hawksworth removed himself from discussion and action on this application due to a relationship with the applicant. A quorum was still present and the meeting proceeded. Chairman Smither read the applicant's proposal requesting to replace a 50' groin as well as construct a new 50' groin. This project is located on the Piankatank River at Tax Map 46-2-19. Staff recommended that the proposed groin be of a low-profile design, meaning that the height at the channelward end of the groin is no greater than mean low water elevation. This will allow for sand to wash and not become trapped which would be possible in the drawing originally proposed. Mr. Kragel read the VIMS report of the project.

Mr. Charles Hall, husband of the applicant, was present to represent her. Mr. Hall stated that his originally drawing submitted with the application was not accurate and that the contractor selected for the job is intending

to install a low profile groin. The groin that is being replaced is low profile in nature. It is the intention that this will allow for build-up of a sand beach.

Chairman Smither opened the hearing for comments from the public. There being none, the public portion of the hearing was closed.

It was noted that the site was not marked prior to the appearance of the Wetlands Board for their site visit, although it was marked in their presence. As a matter of consistency, the motion to table action pending marking of the site, was made by Mrs. Willis, seconded by Mr. Taylor and continued unanimously. Mr. Hawksworth rejoined the meeting.

#### G. James and Martha Fitzgerald – Application #2008-0675

The application to install 130' of vinyl bulkhead in the same footprint as the existing bulkhead was presented. This project is located on Jackson Creek at Tax Map 40-238. Mr. Kragel read the VIMS report of the project. Approval of the project was recommended with conditions.

The agent, Joey Scott, was present to represent the applicant. This application is to proposed to go in the same footprint as the existing bulkhead. If necessary, a turbidity curtain can be placed. Benchmarks to permanent structures have been marked on revised drawing.

Chairman Smither opened the hearing for comments from the public. There being none, the public portion of the hearing was closed.

Regarding existing grasses, grasses are growing in front of the existing bulkhead. Care will be taken to remove the existing structure and replace it from behind so as not to disturb the vegetation. The project has been designed so that there is no net loss. There may be some temporary disturbance; however, it should grow back. Confirmation of this would be available with final inspection of the project.

The motion to approve the application with the following staff recommendations was made by Mr. Hawksworth, second by Mrs. Willis and carried unanimously: (1) wetlands must not be permanently disturbed; (2) demolition debris must be removed from the water; (3) geotextile material must be between any land disturbance and the water to filter sediment. This permit will be valid for a period of 18 months.

#### H. Edward Anderson c/o Isabel Fitzgerald – Application #2008-0617

The application to construct nine (9) stone groins, repair one (1) timber groin and fill groin cells with sandy material from the Bush Creek dredge project was presented. This project is located on the Rappahannock River at Tax Map \_\_\_\_\_, a site with high eroding bluffs. Approximately 2215 cubic yards of sand is to be supplied from the dredging project at Bush Park Creek (VMRC #03-1014) to fill groin cells at groins 7-9, with the idea that this filling will help catch sand up the beach as well. This is one method of slowing down erosion from these bluffs, which has been estimated to loose 1.5 feet per year from 1937 to 2002. Staff read the VIMS report. Approval of the application with conditions was made by Staff.

Karla Havens of Mid-Atlantic Consulting was present to represent the applicant. With regard to access to the project, the owner has stated that there is an old access road on the south eastern end of the property. To access the other end, there is a little trail that exists. The issue of Tiger Beetles has been address with Army Corps representative Adrian Jennings. Tiger Beetles are in noted to be in the area, however, they are not within the footprint of this project.

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

Mr. Taylor asked if the oyster grounds near this project had been checked. According to Ms. Havens, VMRC is the agency that does the research on existing leases. Mr. Taylor expressed his concern that no oyster grounds be covered up by this project. Mr. Taylor also questioned how and where the piping for the dredge project

would go. Ms. Havens noted that she was not the agent for that part of the project. The contractor for the dredging has indicated that he would be placing flexible piping along the beach above mean high water from the dredge site to this site and pumped. Mr. Taylor expressed his concerns that this dredging and piping of material be monitored to insure that materials do not escape. Mr. Neikirk of VMRC stated that there is an existing permit from VMRC for this part of the project. The location used for placement of spoil material is not available now, so the proposal is to hydraulically dredge and pump the material to this location.

The motion to approve the project application was made by Mr. Armstead, seconded by Mrs. Willis and carried unanimously. The permit is valid for a period of 18 months.

#### I. Benjamin Marshall – Application 2008-0568

The application to construct a 198' x 4' timber bulkhead directly in front of the existing bulkhead was presented. This project is located on Meachims Creek at Tax Map 30A-11-A. There are currently vegetated wetlands in front of a portion of the existing bulkhead; approximately 20 square feet would be filled. There are alternatives to allow for no net loss of vegetation. Mr. Kragel presented read the VIMS report. Approval of the application was recommended with conditions.

Ben Marshall, the owner, was present. Mr. Marshall commented that he would be willing to remove the 5' of existing bulkhead to replace it within the existing footprint, then construct the remainder within 2". Mr. Kragel stated that this would be an option; a new drawing would be required.

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

The property owner confirmed that riprap was not an option.

The motion to table the matter until a new drawing is submitted and another site visit is made was made by Mr. Taylor, seconded by Mrs. Willis and carried unanimously.

#### J. Mill Creek Harbor – Application #2008-0628

The application to construct 180' of rip rap revetment at Mill Creek Harbor on Jackson Creek at Tax Map 41-133A was presented. This project would connect two bulkheads and cover an existing groin, helping to prevent erosion in the future. An eroded area will need to be backfilled to support the 95' section of stone at a 2:1 slope. Mr. Kragel read the VIMS report. Approval of the application was recommended with the condition that clean sand be used for backfill.

Mitchell Meredith was present to represent the application. This creek has been dredged several times. Material continues to come overtop the existing bulkhead and into the creek. It is hoped that the rip rap revetment against the bulkhead will help alleviate some of the wave action. Repair of adjacent homeowner's jetties would help alleviate some of the wave action/energy from the front side.

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

The motion to approve the application with the condition that clean sand is used for backfill was made by Mr. Taylor, seconded by Mr. Armstead and carried unanimously. This permit will be valid for a period of 18 months.

### **Public Hearings Continued and Old Business**

#### A. Jeff and Kim Harrington – Application 2008-0244

The application submitted is to construct a new vinyl bulkhead 120' x 5' high, 1' 4" in front of the existing bulkhead, as well as to build a 10' return wall. This project is located on Sturgeon Creek at Tax Map 40-74-2.

Kim Harrington was present to represent the project. Mrs. Harrington had no objections to the report.

Chairman Smither opened the hearing for public comments. With there being no comments, the public portion of the hearing was closed.

The motion to approve the application as submitted given that there is no destruction of wetlands was made by Mrs. Willis, seconded by Mr. Taylor and carried unanimously. This permit is valid for 18 months.

B. Mary Hensley – Application 2008-0247

The application requested that mesh bags of oyster shells be allowed to be staked down between MHW and MLW in three locations. This project is located on the Piankatank River at Tax Map 43-6-3A.

Ms. Hensley was present to represent the project. She stated that this was a project that her grandson was doing for school and that she was simply letting him use her land.

Chairman Smither opened the hearing for comments. With there being no public comments the public portion of the hearing was closed.

Mr. Taylor then asked, "will the spat be settled and moved back?"

Greg, Ms. Hensley's grandson, answered, "yes".

The motion to approve the project based on staff recommendation that the bag placement is monitored weekly was made by Mr. Armstead, seconded by Mr. Hawksworth, and carried unanimously. This permit is valid for 18 months.

C. Monica Fahey – Application 2008-0639

This application requests that an after the fact rip rap revetment be approved on the Piankatank River at Tax Map 37A-8-8A.

Mrs. Fahey was present to represent the project and had no comments.

Chairman Smither opened the hearing for public comment. With there being no public comment the public portion of the hearing was closed.

The motion to approve the after the fact structure was made by Mr. Hawksworth, seconded by Ms. Willis, and carried by unanimous vote. This permit is valid for 18 months.

D. Doris Greene – Application 2008-0302

The application requests approval of an after the fact rip rap revetment located on the Piankatank River at Tax Map 37A-8-10A.

Ms. Greene was present to represent the project and had no comments.

Chairman Smither opened the hearing for public comment. With there being no public comment the public portion of the hearing was closed.

The motion to approve the after the fact structure was made by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote. This permit is valid for 18 months.

**New Business**

A. Extension of Application 2006-2135 from Keaton Garber

The application requests to repair 150' of jetty on the Piankatank River at Tax Map 41-37-8.

Mrs. Willis is not voting.

Chairman Smither opened the hearing for public comment. With there being no public comment the public portion of the hearing was closed.

The motion to approve the repair of the 150' jetty was made by Mr. Armstead, seconded by Mr. Taylor, and carried by unanimous vote. This permit is valid for 18 months.

**Adjournment**

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

Respectfully submitted,

\_\_\_\_\_  
Wetlands Board Chair

\_\_\_\_\_  
Date