

MIDDLESEX COUNTY, VIRGINIA WETLANDS BOARD MEETING MINUTES
TUESDAY, MAY 9TH, 2017

Call to Order:

The Tuesday, May 9th, 2017 meeting of the Middlesex County, Virginia Wetlands Board (the Board) was called to order by Chairman Dolezal at 9:00 A.M. in the Boardroom of the Historic Courthouse, 865 General Puller Highway (Virginia State Route 33), Saluda, Middlesex County, Virginia, 23149-3105.

Present: Mr. Wesley Dolezal (Chairman)
Mrs. Monica Sanders (Vice Chairman)
Mr. Woodson Armstead
Mr. John Boyd
Mr. David Laughton

Staff present: John Settle, Environmental Planner and Codes Compliance Officer

Also present was Jay Woodward of the Virginia Marine Resources Commission (V.M.R.C.).

Approval of Minutes:

Following the Invocation and the Pledge of Allegiance, the Board considered the minutes of the Tuesday, April 11th, 2017 meeting. The motion to approve the minutes was made by Mr. Boyd, seconded by Mr. Armstead, and carried unanimously.

Old Business:

Because Jay Woodward was running late on the morning of the meeting, the Board decided to hear the old business first. The reasoning behind this decision was based on the fact that Jay Woodward had already been present in the previous meeting to hear the one item of old business.

A. Wetlands Application 2016-1874 submitted by Cody Crabill on behalf of Pamela West. This request is to replace east 48' low-profile groin in same footprint & remove existing 1 immediately west of it- construct new 48' low-profile groin immediately west of pier within the Wetlands Board's jurisdiction. The proposed project is located on Rappahannock River at Tax Map Parcel 39-A-3A.

Cody Crabill of Docks of the Bay was present to represent the application and to explain the proposed project.

Chairman Dolezal began a brief period of questions and comments between the Board and the agent.

Chairman Dolezal stated that, after studying the application for three consecutive meetings, he felt familiar enough with the project to say that it was a necessary one.

There being no further questions or comments from the Board, Chairman Dolezal asked for disposition of the application.

The motion to approve the application as submitted was made by Mr. Laughton and seconded by Mr. Boyd and carried unanimously with an eighteen month time limit.

Public Hearing(s):

Jay Woodward appeared following the Board's vote on the single item of old business, allowing the Board to proceed in the initial order of the agenda.

A. Wetlands Application 2017-0238 submitted by Chris Davis on behalf of William Benton. This request is to install west & east of yard 14 6' ReefTek stacks approx. 30' channelward of biogenic reefs that span 120' south of existing riprap, w/ backfill to MHW held w/ cell grids, plantings, earth anchors & concrete cloth within the Wetlands Board's jurisdiction. The proposed project is located on Meacham's Creek at Tax Map Parcel 30A-12-3.

Chris Davis of Ready Reef, Inc. was present to represent the application and to explain the proposed project.

Chairman Dolezal opened the hearing for comments from the public.

There being no comments, Chairman Dolezal closed the public portion of the hearing.

Chairman Dolezal began a brief period of questions and comments between the Board and the agent.

Chris Davis began the discussion with his disappointment in the fact that the letter authored by the Virginia Institute of Marine Science (V.I.M.S.) had not been circulated to him.

Chairman Dolezal responded by stating that the Board had only received their copies the day before.

Davis then began on a lengthy history of the application, highlighting the use of what he described as state-of-the-art products and techniques, in addition to the coordination of several notable vendors of living shoreline products.

Following the conclusion of Davis' remarks, Chairman Dolezal highlighted that this application was complex and consisted of three components- the uplands, intertidal range, and state waters.

Jay Woodward concurred and suggested that the Board was best to stay well within their jurisdiction, the intertidal range, due to the project's complexity.

Chairman Dolezal noticed that the application featured no planting schedule for the proposed vegetation in the intertidal range, and asked for the drafting of a two-year planting schedule as a

condition to this application. In addition, Chairman Dolezal asked Davis if the “Miocene sand” proposed in the application was still going to be used as a component of the proposed project.

Davis indicated that this material would be substituted with a more suitable material- Vice-Chairman Sanders recommended the use of beach nourishment, as this was more compliant with the recommendations made by V.I.M.S.

At some point during the discussion, Chairman Dolezal questioned Davis on the topic of the proposed EnviroGrid, who indicated that the EnviroGrid would not extend channelward of mean high water, and was therefore out of the Board's jurisdiction.

Jay Woodward asked if there were any revisions of the section drawings that were submitted with the initial application- Davis indicated that he had submitted some since then. John Settle added that revised section drawings (if they have been submitted) have yet to be circulated by the V.M.R.C.

This was concerning to Woodward and Chairman Dolezal, as some section drawings contradicted other project components seen in revised drawings from later versions of the application.

The focus of the discussion then turned down numerous paths, most of which were related to the material that many of Davis' proposed living shoreline devices were composed of. Jay Woodward spoke at great lengths about the evolution and current status of living shoreline technology.

As the discussion neared the threshold of a disposition of the application, Mr. Laughton suggested that the application was simply too ambiguous as it was currently configured.

Chairman Dolezal concluded that there was a discrepancy between what was submitted on the latest revision to the application and what Davis was proposing, that some (unrevised) drawings on earlier revisions contradicted drawings of other project components on later revisions, that V.I.M.S.' recommendations go against the application as it was submitted, that there was no planting schedule for the proposed vegetation within the intertidal range, and that the proposed “Miocene sand” seen in the application must be replaced with beach nourishment or another more suitable material, as Davis had suggested he would do.

There being no further questions or comments from the Board, Chairman Dolezal asked for disposition of the application.

The motion to table the application for thirty days to allow for the revision of the application was made by Vice-Chairman Sanders and seconded by Mr. Laughton and carried unanimously.

B. Wetlands Application 2017-0353 submitted by Gary Cosby on behalf of Harris Point LLC. This request is to remove 30' groin & construct 60' groin within the Wetlands Board's jurisdiction. The proposed project is located on Jackson Creek at Tax Map Parcel 41-133A.

Gary Cosby of G.S.C. Commercial Service, L.L.C. was present to represent the application and to explain the proposed project.

Chairman Dolezal opened the hearing for comments from the public.

There being no comments, Chairman Dolezal closed the public portion of the hearing.

Chairman Dolezal began a brief period of questions and comments between the Board and the agent.

Gary Cosby was quick to note that the proposed groin location was selected to minimize the potential impact on a rare species of tiger beetle, which was met with much approval from the Board.

There being no further questions or comments from the Board, Chairman Dolezal asked for disposition of the application.

The motion to approve the application as submitted was made by Mr. Boyd and seconded by Mr. Armstead and carried unanimously with a three year time limit.

C. Wetlands Application 2017-0585 submitted by Robert Lewis on behalf of Carole West. This request is to construct 2 70'x18' breakwaters, 1 68' & 1 48' low profile groin, remove sections of existing dilapidated bulkhead, & install sand landward of breakwaters within the Wetlands Board's jurisdiction. The proposed project is located on Rappahannock River at Tax Map Parcel 39-2.

Robert Lewis was present to represent the application and to explain the proposed project.

Chairman Dolezal opened the hearing for comments from the public.

There being no comments, Chairman Dolezal closed the public portion of the hearing.

Chairman Dolezal began a brief period of questions and comments between the Board and the agent.

Jay Woodward pointed out the fact that the proposed project would be a living shoreline, and reminded all present that riprap structures are capable of fostering certain ecosystems.

Chairman Dolezal asked if there would be any planting occurring after the completion of the work. Robert Lewis responded by indicating that the property owner preferred to allow the existing vegetation to spread.

There being no further questions or comments from the Board, Chairman Dolezal asked for disposition of the application.

The motion to approve the application as submitted was made by Vice-Chairman Sanders and seconded by Mr. Laughton and carried unanimously with an eighteen month time limit.

D. Wetlands Application 2017-0592 submitted by Craig Palubinski on behalf of Terry Haney. This request is to grade & plant bank, & install 110' riprap revetment along base of bank within the Wetlands Board's jurisdiction. The proposed project is located on Rappahannock River at Tax Map Parcel 9B-1A-15.

Craig Palubinski of Bayshore Design, L.L.C. was present to represent the application and to explain the proposed project.

Chairman Dolezal opened the hearing for comments from the public.

Russell Roberts of 18238 Robins Nest Ln, Harcum VA 23061 appeared before the Board on behalf of Ralph Oppenheim (one of the applicant's adjacent property owners) to voice his concerns. Roberts spoke for a considerable amount of time about concerns that were out of the Board's jurisdiction (such as Oppenheim's wish to keep his shoreline natural, and his fear of contractors removing trees from his own property).

In response, both Chairman Dolezal and Jay Woodward made this fact clear to Roberts.

Roberts continued to voice complaints that became increasingly irrelevant to the Board's purpose.

Chairman Dolezal was compelled to return the discussion to order- Roberts then abruptly concluded his comments.

There being no further comments, Chairman Dolezal closed the public portion of the hearing.

Chairman Dolezal began a brief period of questions and comments between the Board and the agent.

Craig Palubinski was quick to respond to Roberts' statements by making it clear that Earth Resources, Inc. (the entity that would be conducting the work for the project) would not be trespassing onto Oppenheim's property, nor would most of Oppenheim's fears concerning the proposed project ever be realized.

Chairman Dolezal agreed with Palubinski, but encouraged him to ask Earth Resources, Inc. to communicate with Oppenheim.

Mr. Armstead agreed with both Palubinski and Chairman Dolezal, stating that the issues presented by Roberts and Oppenheim were clearly neighbor issues, and not the concern of the Board.

There being no further questions or comments from the Board, Chairman Dolezal asked for disposition of the application.

The motion to approve the application was made by Mr. Armstead and seconded by Mr. Boyd and carried unanimously with an eighteen month time limit.

New Business:

John Settle informed the Board that because the protocol for amending the By-Laws had been satisfied, the Board could now vote on the proposed amendments that had been finalized during the last month's meeting.

A. Board to vote on the addition of Subsection 7 to Article 6, Meetings, of the By-Laws.

To be inserted as Article 6, Meetings, Sub-Section 7:

“Should the Board Chairman declare that weather or other conditions make it hazardous for members to attend any scheduled meeting, unless the Board Chairman cancels the meeting, it shall be postponed to the next work day. All hearings and other matters previously advertised shall be conducted at the postponed meeting, and no further advertisement is required.”

The motion to approve the amendment as written was made by Mr. Boyd and seconded by Mr. Laughton and carried unanimously.

B. Board to vote on the revision of Article 19, Violation Procedures, Sub-Section 6, Office Investigation, Paragraph D.

To become the revised Article 19, Violation Procedures, Sub-Section 6, Office Investigation, Paragraph D:

“The Board’s Chair, when necessary, may issue a summons for the appearance of the alleged violator or other witnesses in those cases where staff will be recommending that the Board consider the assessment of a civil charge (based on the civil charge policy in Section 11). If the summoned party notifies Wetlands Board Staff of a conflict with attending the hearing on the specified date, Wetlands Board Staff will notify the Chair for instructions on whether to grant a deferral of the case to a future date. Wetlands Board Staff will notify the summoned party of the Chair’s decision.”

The motion to approve the amendment as written was made by Mr. Laughton and seconded by Vice-Chairman Sanders and carried unanimously.

C. Board to vote on the revision of Article 19, Violation Procedures, Sub-Section 11.

To become the revised Article 19, Violation Procedures, Sub-Section 11:

“As specified in Sections 28.2-1320(B) and 28.2-1420(B) of the Virginia Code, the Board may, with the consent of the person who has violated or failed, neglected, or refused to obey any Board order, rule, regulation, or permit condition, authorized by Virginia Code Sections 28.2-

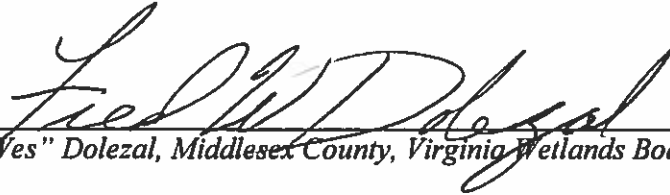
1300 -1320 and 28.2- 1400-1420, in an order issued by the Board against such person, for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation under Sections 28.2-1320(B) and 28.2-1420(B). Civil charges shall be in lieu of any appropriate civil penalty which could be imposed under Virginia Code Sections 28.2-1320(A) and 28.2-1420(A). Civil charges may be in addition to the cost of any restoration ordered by the Wetlands Board."

The motion to approve the amendment as written was made by Mr. Laughton and seconded by Mr. Boyd and carried unanimously.

Adjournment:

Mr. Armstead made a motion to adjourn the meeting; it was seconded by Mr. Laughton and carried unanimously.

Respectfully submitted,



06-17-2017

Mr. Fred Wesley "Wes" Dolezal, Middlesex County, Virginia Wetlands Board Chairman Date