

MIDDLESEX COUNTY, VIRGINIA WETLANDS BOARD MEETING MINUTES
TUESDAY, JUNE 13TH, 2017

Call to Order:

The Tuesday, June 13th, 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, May 9th, 2017 meeting. The motion to approve the minutes was made by Mr. Boyd, seconded by Mr. Laughton, and carried unanimously.

Public Hearing(s):

A. Wetlands Application 2016-1854 submitted by R&W Marine Construction Inc on behalf of Carter Hall. This request is to remove 2 existing 60' timber groins, construct 3 60' vinyl low profile groins w/ L & T heads, & apply beach nourishment within the Wetlands Board's jurisdiction. The proposed project is located on Piankatank River at Tax Map Parcel 46-7-67.

Betty Pugh of R. & W. Construction, 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.

Vice-Chairman Sanders indicated that she had never seen so many contractors in one spot on the day of the site visit.

Pugh responded by stating her concern for the Board on the site visit day due to the concentration of equipment and activity.

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, seconded by Vice-Chairman Sanders, and carried unanimously with an eighteen-month time limit.

B. Wetlands Application 2017-0694 submitted by GSC Commercial Services LLC on behalf of Jonathan Davis. This request is to remove & regrade soil behind existing bulkhead (to be removed) & add sand nourishment to exposed soil within the Wetlands Board's jurisdiction. The proposed project is located on Sturgeon Creek at Tax Map Parcel 40-24-10.

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.

Lavinia Alexander and asked the Board to consider how the sand from the proposed beach might impact the narrow channel leading from a small cove to the rest of Sturgeon Creek- of which, Jonathan Davis' property comprised the western side.

Chairman Dolezal responded by stating that this was the reason why a six-foot wing wall was added to the proposed project's application.

Alexander stated her appreciation of that aspect of consideration, and presented the Board with approximately twenty letters from various homeowners on Sturgeon Creek who were in opposition to the project.

Linda Carter expressed her concern for removing the bulkhead and the impact it would have on sand in the channel.

Chairman Dolezal stated that the Board was aware of this concern, and that it had already been addressed- he asked for John Settle to give a brief description of how this had been addressed.

Settle highlighted how Cosby and Davis had amended their plans from an outright removal of a section of the bulkhead, to the same removal but with reinforcement in the form of a six foot wing wall for the portion of the bulkhead that remained.

Carter questioned whether or not that alteration would preserve the channel.

Chairman Dolezal responded by saying that the Board had done the best that it could given its powers and jurisdiction.

Carter stated that prior owners had attempted to complete projects similar to what Davis was proposing, but were denied for some reason.

Chairman Dolezal asked if there was any written agreement binding the owner of what is now Davis' property to maintaining the bulkhead.

Lewis Carter informed the Board that he and some of his neighbors were the original financial backers of the existing bulkhead on either side of the channel, which has been in place for at least sixteen years.

Mr. Laughton asked Carter if there was any written agreement binding the owner of what is now Davis' property to maintaining the bulkhead.

Carter responded that there was no such agreement.

Mr. Armstead applauded the initial use of a low-profile bulkhead.

Mr. Boyd asked Carter if he had any recommendations to Davis on how to proceed with his project.

Carter lengthily suggested that the site be left as it is.

Chairman Dolezal asked Jay Woodward if a permit was necessary to remove a bulkhead.

Woodward spoke at length on the subject, and responded by saying that the sole act of removing a bulkhead does not require a permit, but that the property owner is responsible for acquiring permits for whatever land, debris, etc. goes into the intertidal range and/or state/federal waters as a result of the removal of the bulkhead. He also went on to suggest that the six foot wing wall was probably the only component of the proposed project (aside from the proposed beach nourishment) that would strictly demand a wetlands permit. Woodward offered his attention to the public following the meeting.

Carter suggested that perhaps the bulkhead ought to be extended to the property line between the proposed sand and existing lawn, and that the amount of beach area be slightly reduced.

Chairman Dolezal expressed that the beach area had already been reduced when the project was reconfigured to conform to C.B.P.A.E. 2013-20.

Cosby stated that the efforts taken by himself and the applicant to address Chesapeake Bay Preservation Act Exception 2013-20 already addressed much of the concerns voiced by both the Board and the public.

Carter stated that when he was working to have the bulkhead constructed in 2001, the U.S. Army Corps of Engineers told him that he had to extend the bulkhead to its present northernmost point, despite his desires not to.

Barbara Hall wanted to express to the Board that the channel is actually natural and not man-made. Hall circulated aerial photographs of the channel to the Board and stated that sand will get into the channel if a larger beach is constructed.

Boudewyn Beukenkamp highlighted the importance of landward retaining walls to prevent sediment from eroding into the creek. He also stated that erosion as a result of the removal of the existing bulkhead would only be hastened.

Chairman Dolezal insisted that this would be significantly remedied by the applicant's compliance with the conditions of C.B.P.A.E. 2013-20.

James Trevett asked the Board who would maintain the channel if the remnants of the existing bulkhead were to fail.

Chairman Dolezal responded by saying that such an occurrence would likely be resolved by a civil matter between property owners.

James Chenowith stated his appreciation of Carter's generosity in 2001 concerning the construction of the bulkhead on either side of the channel.

Robert Wood asked the Board why something that wasn't broken needed to be fixed.

Susan Beukenkamp expressed her frustration with the County's requirement of mitigation plantings and how it was her experience that no one from the County ever came to inspect to see if those plantings were ever planted.

Settle reminded Beukenkamp that it is the permit holder's responsibility to call County staff for a final inspection of the project.

Marsha Sublette asked the Board to consider the fact that the proposed project could impact at least forty property owners.

Linda Carter returned to the stand to state that the property owner ought to have done his research prior to purchasing the property to see whether or not a project like this could be completed.

Boudewyn Beukenkamp returned to the stand to state that a prior owner had attempted to construct a pier on Mr. Davis' property, but had been denied by the U.S.A.C.E.

Mr. Laughton reminded the public that piers were largely out of the Board's jurisdiction.

There being no additional 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.

Vice-Chairman Sanders asked if the Board could approve the application contingent on the V.M.R.C.'s and the U.S.A.C.E.'s approval.

Chairman Dolezal stated that such an action would be dubious and set too much of a precedent.

Woodward pointed out that the applicant was not present, and yet a significant amount of freeholders were.

Cosby responded by stating that he had been hired as the applicant's agent.

Chairman Dolezal, Cosby, and Woodward began on a lengthy discussion of reconfiguring the bulkhead in a manner that would satisfy as many parties as possible. The result was the agreement that Cosby and Davis would revise the proposed project to include a low-profile bulkhead between the lawn and the rear of the proposed beach- extending to the edge of the property.

Vice-Chairman Sanders asked if the Board could approve the application contingent on the V.M.R.C.'s and the U.S.A.C.E.'s approval.

Chairman Dolezal and Woodward again stated that such an action would be dubious and set too much of a precedent, and compliance within each entity's jurisdictions is already a given.

Mr. Laughton also approved of the proposed condition for the extended low-profile bulkhead.

Vice-Chairman Sanders reminded the public of the Board's limited jurisdiction.

Chairman Dolezal allowed Trevett to make a comment, who stated that the beach area would still result in some filling of the channel.

Chairman Dolezal responded by saying that the Board has done the best that it could within its jurisdiction.

Chairman Dolezal allowed Richard Carter to ask what the likely height of the proposed bulkhead would be.

Cosby responded by saying that it would probably be about two feet, although he would have to consult with his client first.

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. Laughton, seconded by Vice-Chairman Sanders, and carried unanimously with an eighteen-month time limit under the following conditions:

- 1.) The B.M.P. agreement and planting schedule for C.B.P.A.E. 2013-020 shall be followed strictly.
- 2.) A low-profile bulkhead shall be constructed in between the lawn and the rear of the proposed beach- extending to the edge of the property.

C. Wetlands Application 2017-0799 submitted by Mid-Atlantic Resource Consulting on behalf of J. Steven & Janice Compton. This request is to construct 22' stone revetment next to existing revetment, construct 100' stone marsh toe w/ sand nourishment in eroded pockets, & plant spartina alterniflora on 24" centers where denuded within the Wetlands Board's jurisdiction. The proposed project is located on Urbanna Creek at Tax Map Parcel 19E-3-16.

Karla Havens of Mid-Atlantic Resource Consulting 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.

Vice-Chairman Sanders, Mr. Armstead, Mr. Boyd, and Mr. Laughton all agreed that the project was necessary.

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, seconded by Vice-Chairman Sanders, and carried unanimously with an eighteen month time limit.

Old Business:

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.

Chairman Dolezal asked Davis if he had any questions concerning the staff report.

Davis responded that he wasn't aware of any preexisting permit (referring to Resource Protection Area Modification Permit 2016-021), and stating that he felt that he had satisfied all of the requests made by the Board in their prior meeting.

Chairman Dolezal asked Davis if he was still committed to keeping the Geo/Enviro Grid out of the intertidal range.

Davis did not provide a clear answer, and instead insisted that his letter to the Virginia Institute of Marine Science (V.I.M.S.) argued a case that was reasonable enough to be considered by the Board, given recent scholarly attention to the topic of plastics in the intertidal range. Davis went further by saying that the company that manufactures the Geo/Enviro Grid has used this product in all types of environments, including intertidal ones.

Chairman Dolezal responded by informing Davis that he had contacted the company, and they had told him that such a product had not (to their knowledge) been used in an intertidal environment.

Davis asked if the Board could still approve the project despite their disagreement with his opinion regarding the use of the Geo/Enviro Grid in the intertidal range.

Chairman Dolezal informed him that the Board would have difficulty approving something that was not recommended (and in fact discouraged) by the V.I.M.S.

Davis yielded to 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 Chairman Dolezal, seconded by Vice-Chairman Sanders, and carried unanimously with an eighteen-month time limit under the following conditions:

- 1.) The "Miocene sand" mentioned in the earlier versions of the application shall be substituted with beach nourishment or another material approved by the V.I.M.S.
- 2.) The latest version of the application shall be the rule and guide of the project.
- 3.) The planting schedule shall be followed strictly.
- 4.) The Enviro/Geo Grid shall not extend channelward of mean high water.

New Business:

A. EXTENSION REQUEST Wetlands Application 2014-1139 submitted by Craig Palubinski on behalf of Wagner Holdings LLC This request is to 1) Construct a Travel Lift Facility to include: 35' vinyl bulkhead with concrete apron, 3'x95' & 3'x110' open pile travel lift piers, remove existing 4'x58' landward pier connection ("F" dock) and construct a 6'x75' replacement open pile pier extension to upland. 2) Dredge travel lift basin, fairway and entire marina mooring slips and fairways to -7' mlw: total volume 17,900 cu.yds. 3) Dredge marina cove and entrance channel to -4' mlw: total volume=580 cu.yds. All dredge material to be placed in a proposed upland containment area on site within the Wetlands Board's jurisdiction. The proposed project is located on Locklies Creek, at Tax Map Parcel 30-7-8A1.

Paul Andersen was present to thank the Board for the consideration of the extension request.

The motion to approve the extension request was made by Vice-Chairman Sanders, seconded by Mr. Boyd, and carried unanimously with a three-year time limit.

B. BOARD NOTIFICATION Wetlands Application 2017-0665 submitted by Wayne Savage on behalf of Fishing Bay Yacht Club. This request is to remove existing east pier & construct new 272' floating pier 30' east of it & dredge immediately in front of bulkhead to 6' depth below MLW out to a location 60' east of proposed pier/100' from shore outside of the Wetlands Board's jurisdiction. The proposed project is located on Jackson Creek, at Tax Map Parcels 40-394, 41-66, and 41-67.

The Board appreciated the knowledge that staff had determined that this commercial project did not require a wetlands permit.


C. CHANGE IN FEE SCHEDULE 06/06/2017: Middlesex County, Virginia Board of Supervisors voted in favor of increasing the fee schedule for all permits. This impacts the Wetlands Board and permitting process by increasing the review fee to \$50.00, the permit fee to \$225.00, the commercial permit fee to \$300.00, and creating a \$50.00 permit extension fee. The \$550.00 after-the-fact permit fee and the \$9.00 per square foot "no net loss of wetlands" in lieu of fees have remained the same.

The Board appreciated the knowledge of this change.

Adjournment:

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

Respectfully submitted,

 7-11-2017
Mr. Fred Wesley "Wes" Dolezal, Middlesex County, Virginia Wetlands Board Chairman Date