

ACCOMACK COUNTY WETLANDS MINUTES OF NOVEMBER 15, 2018

At a meeting of the Accomack County Wetlands Board held on the 15th day of November 2018 in the Accomack County Administration Building Board Chambers, Room #104, in Accomac, Virginia.

1. CALL TO ORDER

MEMBERS PRESENT AND ABSENT

Wetland Board Members Present

Mr. Earl Frederick, Chairman

Mr. George H. Ward, Jr., Vice Chairman

Mr. T. Lee Byrd

Mr. Gene Wayne Taylor

Mr. Timothy Getek

Others Present:

Mr. G. Christian Guvernator IV, PE, Director Environmental Programs

Ms. Chontese Ridley, Environmental Programs Permit Specialist

Mr. Hank Badger, Virginia Marine Resources Commission (VMRC)

DETERMINATION OF A QUORUM

There being a quorum, Chairman Frederick called the meeting to order at 10:00 a.m.

2. ADOPTION OF AGENDA

Mr. Getek said he would like to briefly like to talk about some scientific meetings that he had attended, the barrier island, and to give an update on the coastal manager that the governor's office is involved with.

On a motion made by Mr. Ward and seconded by Mr. Taylor, the Wetlands Board voted to unanimously adopt the agenda as amended.

3. MINUTES

A. **October 25, 2018**

Mr. Getek pointed out a minor typo on the second page about half way down. "*After yea 2 or 3*" was changed to "*After year 2 or.*"

On a motion made by Mr. Byrd and seconded by Mr. Ward, the Wetlands Board voted to approve the minutes of the October 25, 2018 meeting.

4. NEW BUSINESS

A. **Nancy Kippenhan – VMRC# 2018 – 1498**

20361 Pintail Lane

The portion of the project which is in the Wetlands Board's jurisdiction is to construct a 125 feet bulkhead. The property is located in Schooner Bay subdivision of Onancock, VA 23417, Tax Map #75D-1-2-16.

Nathan Iseman, Iseman Marine, appeared before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Frederick. Mr. Frederick asked Mr. Iseman to explain what he was proposing to do. Mr. Iseman stated there is currently no bulkhead in that portion of Schooner Bay. He added that everything eroded back behind the neighboring bulkheads and that a bulkhead was needed.

Mr. Iseman said he did not think rip-rap would be a good idea, because he thought the toe would erode being so close to the channel. He said all of the work for the bulkhead would be done from the water except for putting in the dead men in.

Mr. Frederick said the application mentioned trees being removed. Mr. Iseman said there were trees/shrubs along the shore that would be removed. He said the trees would not survive. Mr. Byrd added that the trees were leaning over.

Mr. Frederick said that he was not sure that he agreed that riprap would fail. He did not believe that the slope was great enough to cause the rocks to slip down into the channel, but did see the concept of running a bulkhead in between two bulkheads. Mr. Byrd chimed and said he also did not agree that the riprap would fail. He said if done correctly with the right cloth and right size it would work, however, if he lived there he would want a bulkhead to match with the neighbors. Mr. Byrd then asked if it was the board's job to determine if riprap will work ahead of bulkheading? Mr. Ward responded no. Mr. Ward elaborated by saying if the board determined the riprap would work and refused the rip rap, and it failed, the board would be liable. Mr. Byrd said he was not in the position to guarantee a riprap would work when a professional has said it will not.

Mr. George Badger, (VMRC), was sworn in by Chairman Frederick. Mr. Badger said Mr. Byrd's statement was correct. Mr. Badger said he believed that the board has leeway between a bulkhead and revetment depending on the situation. Mr. Byrd then asked Mr. Badger if it was the board's job to push one over the other, (rip-rap vs. bulkhead). Mr. Badger said the pecking order would be:

1. Worst Case – Bulkhead
2. Best Case – Living Shoreline

However, in this case, Mr. Badger said this was a manmade canal mainly bulkheaded already so a living shoreline would not be practical.

Mr. Badger said when at the site he had trouble seeing where the shoreline was and that he did not see any vegetative wetlands. Mr. Frederick said he did not see any either and questioned the 32 sq.ft. that was claimed in the application.

Mr. Chris Guvernator, Accomack Co. Environmental Programs, was sworn in Chairman Frederick. Mr. Guvernator stated he did think there was some wetlands, but not vegetative. A discussion ensued and the board and Mr. Iseman agreed to go with 0 sq. ft. of vegetative wetlands.

On a motion made by Mr. Byrd and seconded by Mr. Getek, the Wetlands Board voted to issue a permit (valid for (1) year) to Nancy Kippenhan – VMRC# 2018 – 1498, to construct a 125 feet bulkhead with one modification:

- 1. Acknowledging zero disturbance of vegetative wetlands*

The property is located in Schooner Bay subdivision of Onancock, VA 23417, Tax Map # 75D-1-2-16.

**B. MWM Chincoteague Minnow – VMRC# 2018 – 1515
7112 Piney Island Road**

The portion of the project which is in the Wetlands Board's jurisdiction is to replace an existing bulkhead and walkway in the exact location of the existing bulkhead and walkway. The property is located on Chincoteague Island, VA 23336, Tax Map #30A6-A-42.

Raymond Britton, Jr., (BIC, INC.), appeared before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Frederick. Mr. Britton said the owners would like to pull out the existing

bulkhead and put a new one in back in the same footprint. Mr. Frederick asked if anyone had any questions for Mr. Britton and Mr. Getek did. He questioned the bulkhead going in place over pulling it back. Mr. Britton explained that if he applicant did that there would be no gain. Mr. Britton also added that the applicant would have to apply for a dredging permit if they pulled it back. Mr. Getek then asked, pertaining to dredging, if it would be in the board's jurisdiction, and Mr. Ward said no.

Mr. Taylor chimed in and said the bulkhead needed to be replaced and that there was no way around it. He also said when making the motion that he would not say existing due to the lines changing and being bowed out past the survey line. He told Mr. Britton to stay on the landward side of the most recent survey.

When asked about the floating dock Mr. Britton said that the applicant had not made their mind up so he did not know for sure if there would be a floating dock or not. Mr. Frederick asked Mr. Guvernator if it bothered the county that they do not know whether or not a fixed pier or floating pier would be installed. It was decided that this would be covered in the motion. Mr. Britton added that he would turn in revised drawings when the applicant decides.

Mr. Badger pointed out the backfill and that it was of some interest. He wanted to know how far back it was going because there are some vegetative wetlands. A discussion ensued. They agreed that the fill would be 8 feet or less landward of existing bulkhead, and not to cover existing grass.

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted to issue a permit (valid for (1) year) to MWM Chincoteague Minnow – VMRC# 2018 – 1515, is to replace an existing bulkhead and walkway in the exact location of the existing bulkhead and walkway with the following conditions:

1. *All work to be done landward, (instead of in existing footprint), of the property survey.*
2. *The 16 feet x 48 feet can either be a floating dock or a fixed pier. If it is going to be a fixed pier revised drawings will need to be submitted.*
3. *Backfill of is to be 8 feet landward of the bulkhead or less, and not covering any existing wetland grasses.*

The property is located on Chincoteague Island, VA 23336, Tax Map #30A6-A-42.

5. OTHER BUSINESS

A. Living Shoreline Waiver (Tom Mooney – VMRC# 2018 – 1682)

22191 India Lane

Install 277 linear feet of Ready Reef system at marsh toe, backfill w/ clean sand at 10:1 & plant marsh grasses. There will be an impact to 100 square feet of vegetated tidal wetlands, and 1,060 square feet of non-vegetated tidal wetlands impact. Net gain of 800 sq. ft. of wetlands.

Mr. Guvernator wanted to introduce a new project to the board and to speak on the types and permitting process for Living Shorelines. He stated that VMRC and the Virginia Code promoted Living Shorelines. There are two types of projects: Group 1, (wetlands enhancements, above MLW) expedited permit path), and Group 2, (sills).

Mr. Guvernator said the wanted bring this to the board's attention because the Accomack County's code does not mention this, and does not deal with this expedited process for living shorelines. He did add that the believed, (in the future), the county would amend the code to include this eventually. The second reason is because if a project is determined by the board chair, VMRC representative, and Accomack Co. staff to comply with a group 2 project, then the project would not come before the board for approval. It would just qualify under a general permit. Mr. Guvernator stressed that the purpose of this was to

streamline these types of projects if it meets a certain criteria, and to limit the applicability of the permit to situations where it would be successful.

A discussion ensued.

General Permit Criteria

- Clear evidence of active detrimental erosion at the project site
- Maximum fetch at the project site does not exceed 1.5 miles in any shore angle direction
- Maximum water depth at the sill location shall not exceed two feet at mean low water,
- Landward edge of the sill shall not be located further than 30 feet channel ward of mean low water
- Existing or created tidal wetland with a minimum total width of eight feet
- Marsh toe revetments, sills, and associated sand fill shall not be placed on submerged aquatic vegetation or vegetated wetlands, except sand may be placed on vegetated wetlands if deemed necessary to improve wetlands habitat or resiliency
- Coarse sand should be utilized for any required fill
- Any measures taken to eradicate invasive species at the project site associated with the living shoreline activity, including Phragmites sp., shall be noted

B. Ready Reef Presentation (Chris Davis)

President, Ready Reef Inc

Mr. Davis gave a power point presentation and went into detail about what he does. He also gave the board members and informed the board on how they could contact him. Ready Reef specializes in Living Shorelines and Oyster Habitats for the Chesapeake Bay.

C. CCRM Handout

Mr. Chris Guvernator said the handout was for the board members reading pleasure.

D. T. Getek – Scientific Meeting Overview

Mr. Getek said he would postpone until December due to the time. He did mention that the Governor's Office had a sup-cabinet position open and announced that Anne Phillips was appointed to the position. Ms. Phillips has an MBA and is a NAVY veteran.

6. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, December 13, 2018 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac.

7. ADJOURNMENT

On a motion made by Mr. Byrd and seconded by Mr. Taylor, the Wetlands Board voted to adjourn the meeting.

The meeting was adjourned at 11:50 a.m.

Earl Frederick, Chairman

Chontese Ridley, Environmental Permit Specialist