

ACCOMACK COUNTY WETLANDS MINUTES OF FEBRUARY 28, 2019

At a meeting of the Accomack County Wetlands Board held on the 28th day of February 2019 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. Timothy Getek

Mr. Gene Wayne Taylor

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)

Mrs. April Black, Environmental Programs Administrative Assistant

Ms. Katie Spady, Environmental Specialist (Northampton County, VA)

DETERMINATION OF A QUORUM

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

2. ADOPTION OF AGENDA

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

3. MINUTES

A. January 24, 2019

On a motion made by Mr. Byrd and seconded by Mr. Getek, the Wetlands Board voted to approve the minutes of the January 24, 2019 meeting.

4. NEW BUSINESS

A. Fish & Wildlife Service, U.S. - VMRC# 2018-1690

8231 Beach Road

For the replacement of water control structures #2-5. The property is located on Assateague Island, VA 23336, Tax Map #46-A-2.

Kevin Holcomb, U.S. Fish & Wildlife Service – Supervisory Wildlife Biologist, appeared before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Frederick. Mr. Frederick asked for a breakdown of the project and Mr. Holcomb started off with a map describing the location of the project. He said the structures they are trying to replace were constructed in the 1950's and 1960's, numbers 2, 3, 4, and 5. The reason behind this is to increase water flow in large storm events that fill the pools up above management capabilities. Mr. Holcomb also added that the pool systems were created for migratory birds, and explained the outflow of each one.

Most of the control structures needing to be replaced are made out of concrete and are old and dilapidated. The new ones will be larger with a bigger weir system to allowing a quicker water flow, and they will be able to the water flow in the impoundments to a manageable level.

Mr. Holcomb asked the board if he could give a more in-depth presentation on the water levels and how they manage them migratory birds. The board agreed and the presentation started. Mr. Holcomb gave his presentation and then asked the board members if they had any questions.

Mr. Getek asked, (for clarification), that Mr. Holcomb not only wanted to impound water, but to also get it out quickly if there's a storm surge. Mr. Holcomb confirmed that was correct. Mr. Getek also pointed out that they proposed to use HEP Piping over concrete or metal, and asked if it was for an environmental reason. Mr. Holcomb said the reasoning for that was convenience and cost. Mr. Ward chimed in and asked if all the rain had given them a lot of fresh water and Mr. Holcomb said yes, and that it was good for their system. Mr. Taylor asked if there was, (sometime), tidal flow coming in from both ways. Mr. Holcomb said no, the structures having a stopping feature to keep water from coming back into the structure. All the structures besides "F" have the stopping feature.

Mr. Frederick stated the board had determined the only structure in the board's jurisdiction was #2, which is also known as "A", and has direct connection to Black Duck Marsh. Mr. Frederick added that he, Mr. Badger, and Mr. Guvernator toured the area and determined what was in the board's jurisdiction. Mr. Guvernator said only the downstream of "A" was in the board's jurisdiction and not the upstream. Mr. Frederick agreed noting that it was the area to the left that flows into the marsh.

Mr. Taylor said he also when out to the site and asked Mr. Badger if all the boards were left out, (the stopping features), would the whole project be in the board's jurisdiction.

George Badger, VMRC, was sworn in by Chairman Frederick. Mr. Badger said that if the boards were left out and it became tidal the board would have jurisdiction. Mr. Badger said that it would be marginal and he was not sure, even with all the boards out, how far the county's tidal influence would be.

Mr. Getek asked about the mitigation fee and square footage of impacts (subaqueous), and whether or not it would be documented. Mr. Byrd said they were exempt. Mr. Frederick said there had been a debate on whether or not the applicant was exempt from paying a mitigation fee, and asked Mr. Guvernator for his input.

Chris Guvernator, Environmental Programs, was sworn in by Chairman Frederick. Mr. Guvernator said he had checked with VMRC about the applicant being exempt. He said if this were a state project it would be, but since this is a federal project it is not exempt. There were 4 square feet of impacts to vegetative wetlands. Mr. Taylor asked about the subaqueous impacts and Mr. Guvernator responded that they do not track subaqueous impacts.

A. 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 Fish & Wildlife Service, U.S. - VMRC# 2018-1690 for the replacement of water control structures #2-5 with the following conditions:

- i. Pay \$48.00 in mitigation fees for 4 square feet of impacts to vegetative wetlands*

This property is located on Assateague Island, VA 23336, Tax Map #46-A-2.

**B. Elizabeth & Ronald Carey, Jr. – VMRC# 2019 – 0021
17411 Northside Road**

To install approximately 115 linear feet of VDOT Class II Quarry Stone up against an eroding embankment approximately 3 feet in height, and to do repairs on the existing pier. The property is located in Onancock, VA 23417, Tax Map #75B-A-37.

Ellen Grimes, Coastal Resource Management, appeared before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Frederick. Ms. Grimes started with informing the board that the project location used to be a former working waterfront. (Hence the two piers) The property is now residential and the applicants want to rip-rap the shoreline. Ms. Grimes said that the pier, to her knowledge, would be for personal use only. She then spoke on the utility building existing on site with a concrete floor. Ms. Grimes said the applicants want to get rid of the concrete floor and put in a wooden floor, and replace the pilings leaving the building in the same footprint. Ms. Grimes said she suggested

raising the building up to the contractor so that the sun would be able to get under it. Said she was not sure what all was in the board's jurisdiction, and Mr. Byrd said that was a Hank question.

Mr. Byrd said the building would need a building permit, but that it was in bad shape and needed to go. Ms. Grimes said there were no impacts to vegetative wetlands and that this project was an improvement to the site. Mr. Taylor asked if the building was in the board's jurisdiction and Ms. Grimes said maybe half of it due to the erosion. Mr. Byrd asked Mr. Badger if it was in or out and Mr. Badger said the building was in the board's jurisdiction. He added that there were also vegetative wetlands in the area, and calculated about 48sq.ft. of impacts. Mr. Byrd had calculated 30sq. ft. of impacts. A small discussion ensued resulting in Ms. Grimes saying she would revise the drawings staying against the bank. By doing this it would decrease the impacts to almost nothing, said Mr. Byrd. Mr. Frederick added that she would also need to re-measure the 116 feet to porch measurement since it would be pulled back.

Mr. Governator stood to speak on the building stating there would be some major issues with the county in other departments. There is a CBPA, (Chesapeake Bay Preservation Act), issue with the building and with it being lifted and changed. Mr. Governator said the applicants would have to come in and talk to the county and the state about these issues. He said the county was referring this project to the state, (DEQ – Department of Environmental Quality), due to not having enough expertise to handle it. Mr. Governator informed the board that they were only looking at the pilings. He told the board their motion would not talk about the building, the concrete floor, raising it, or the use for the building and so on.

A discussion ensued about what was the board's concern, the pilings, and what should go in the motion. The board concluded that to approve the permit that new drawings needed to be submitted without the building. Ms. Grimes said the pilings needed to be permitted by the board and Mr. Frederick agreed.

On a motion made by Mr. Byrd and seconded by Mr. Ward, the Wetlands Board voted to issue a permit (valid for (1) year) to Elizabeth & Ronald Carey, Jr. – VMRC# 2019 – 0021, to install approximately 115 linear feet of VDOT Class II Quarry Stone up against an eroding embankment approximately 3 feet in height with revised drawings. The property is located in Onancock, VA 23417, Tax Map #75B-A-37.

5. OTHER BUSINESS

A. Mitigation Fee Information

Mr. Governator said he did some research and wanted to go over mitigation fees from across the state. He added that the Accomack County Mitigation account was established in February of 2008. One of the reasons Mr. Governator wanted to discuss this topic was the possibility of a joint wetlands project at the Makemie Monument site to create tidal wetlands, and possibly using funds from the mitigation account to do this. This would be the first project to use this funds if approved. With that being said, the Wetland's Board would have to approve the funds to be used for this.

The account was set up to be utilized for expenses associated with wetland compensation projects. Mr. Governator went on to explain what that would entail and a discussion ensued about the Makemie Monument project. They also touched on determining whether or not the \$12 per square feet was sufficient for what needs to be done on any project, and the possibility of having to go to the Board of Supervisors to request an increase.

B. Harvey & Carol Muller III & Andrew & Colleen Best - VMRC# 2017-1717 Potential Violation

To install a wave break like structure to the existing bulkhead, and to place fill material directly behind the bulkhead to build the elevation. The property is located in the Captain's Cove subdivision in Greenbackville, VA 23356, Tax Map # 5A1-1-987 & 5A1-1-988. [*Stipulation that the maximum of 2 feet above adjacent bulkhead, and change 8 cubic feet of intertidal fill to a maximum of 16 cubic feet of intertidal fill to a maximum of 16 cubic feet of intertidal fill.*]

Mr. Governator summarized this project for the board and showed them the area in question. The applicant gave Mr. Governator photos to show the board of some erosion that happened after they came before the

board in 2017. After the permit was issued Fisher Marine decided not to do the work. No work was done on the project until last winter, and it was done by a different contractor. A bulkhead was installed without a building permit and is currently being looked into by the building department. Mr. Guvernator said that he would be going out to the site tomorrow, (February 29, 2019), to meet with the owners and Luke Britton. The homeowners are saying that the current bulkhead was failing and that the contactor that installed the new bulkhead saved them.

Mr. Guvernator said he told the homeowners to cease and desist any work that had not been permitted. He then showed photos of what the site looked like now. The photos showed that the proposed planting area had been filled in. Mr. Guvernator said during his visit tomorrow a Notice of Violation would most likely be given. This is being perused as construction without a permit until the county building official says differently.

C. Northampton Wetlands Board Observations

Mr. Guvernator went to Northampton County's February Wetlands Board meeting to see how their meets are run compared to Accomack County's Wetlands Board. He also noted that he was not sent, but that he went on his own to observe. There were a few things that Mr. Guvernator said he observed that he wanted to share with the board. He also added that he was not bringing these items to the board to say that they were the best practices, but things he would like to research and come back to the board with:

1. The board chair recognized everyone at the beginning of the meeting and swore everyone in as a group. Everyone who wanted to speak stood up to be sworn in.
2. Made a specific point in each permit application to open and close the public hearing portion. Once closed there was no more discussion the board deliberated and voted.
3. The staff memo was read in its entirety in front of the board into the minutes
4. Every single review on the permits included decision on following the VIMS Decision Tree.
5. The sectary read back each motion before the vote to make sure it was correct.
6. Permit extensions were from the date of the vote, and not the date it expired.

NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, March 28, 2019 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac.

6. ADJOURNMENT

On a motion made by Mr. Taylor and seconded by Mr. Ward, the Wetlands Board voted to adjourn the meeting.g
The meeting was adjourned at 11:49 a.m.

Earl Frederick, Chairman

Chontese Ridley, Environmental Permit Specialist