

## ACCOMACK COUNTY WETLANDS MINUTES OF MARCH 28, 2019

At a meeting of the Accomack County Wetlands Board held on the 28<sup>th</sup> day of March 2019 in the Accomack County Administration Building Board Chambers, Room #104, in Accomack, 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)

Ms. Shannon Alexander, Accomack Northampton Planning District Committee (ANPDC)

#### 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. Taylor, the Wetlands Board voted to approve the minutes of the January 24, 2019 meeting.**

### 4. NEW BUSINESS

#### A. Sherie & Glen Stauffer & Michele Rabbitt-Wagner. - VMRC# 2019-0135 20364 & 20356 Bluebill Lane

To install approximately 103 linear feet of combined riprap marsh toe protection and a 64 linear feet sill. Also, to install an approximately 95 linear feet private pier with 8x10 feet "L" Head on the Stauffer property. Then to install approximately 110 linear feet of riprap toe protection, and a private pier that will be approximately 56 linear feet with an 8x10 feet "T" Head on the Rabbitt-Wagner property. Both properties are located in the Schooner Bay subdivision of Onancock, VA 23417.

Ellen Grimes, Coastal Resource Management, appeared before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Frederick. Ms. Grimes summarized the project descriptions stating the total rip-rap, for both properties, was 213 feet and the sills, which are only on one property, was 64 feet. Same contractor will be doing the work for both. She added that filter cloth would be put down and class I and II stones would be used. Also, there will be no fill put behind the sills and all work would be done from the marsh. Mr. Frederick asked if the only sills were in front of the small embayments and Ms. Grimes confirmed it that was correct.

Chris Guvernator, Environmental Programs Director, was sworn in by Chairman Frederick. Mr. Guvernator wanted to clarify that the piers were new piers going in a not existing. Ms. Grimes said on

the Stauffer property there was reminisce of an old pier, however, it is not serviceable. It will be coming out and a new one will be going in. The piers are out of the board's jurisdiction.

Mr. Frederick said he went to the CCRM comprehensive map viewer page to see what VIMS recommended to be done. From the color codes it looked like this would fall under Maintain Riparian Buffer. Mr. Frederick stated that VIMS recommends that the property owner slop the property 100 feet back from the existing shoreline and plant native plants. There was some discussion on measurement and the accuracy of this system. Mr. Frederick on behalf of himself and the board member's why the applicants decided to go with riprap? Ms. Grimes said it depends on the contractor, contractor specialty, price, and what the property owner wants to see. She also added that when she talks to perspective clients she gives them all options and gives them a list of contractors.

George Badger, VMRC, was sworn in by Chairman Frederick. Mr. Badger said the VIMS Map was not part of the decision tree. A short discussion ensued on the decision tree.

Mr. Getek questioned some concrete blocks he seen and Ms. Grimes had not seen any. Mr. Byrd chimed in to say the concrete blocks were passed the properties. Mr. Ward thought they were on the applicant's property as well and Mr. Byrd said no, they were on the eastern side.

Mr. Frederick said there was a large fetch, but was not sure how long it was. Mr. Byrd said it could have been more than a mile, but was not sure either. Ms. Grimes mentioned there was someone in the audience who could possibly be one of the applicants, but was not sure. The guest said the lived next-door to the Rabbit-Wagener property.

Mr. Joe Pinder was sworn in by Chairman Frederick. Mr. Pinder said he did not know what rip-rap was, but was concerned about what was going to happen to his property after it was installed being that he would not have rip-rap. He wanted to know if it would deflect hurricane surge onto his property. Mr. Frederick said if the applicants proposed a bulkhead the answer would be yes and then asked Ms. Grimes and Mr. Governator if they wanted to speak on the matter. Mr. Governator said rip-rap is usually built at the height of MHW so that it is dissipating energy. Mr. Pinder asked if the structure would absorb water, and Chris responded yes. Mr. Pinder said the planned on installing 5 feet of 4x4s to absorb the difference between the marsh and gravel. He believed that a hole would be made from not having a rip-rap on his property and that the 4x4s would prevent it. Mr. Governator told Mr. Pinder to make sure he followed the proper permitting process before installing anything.

Mr. Byrd pointed out how much property Mr. Pinder had already lost and that his neighbors were installing rip-rap for the same reasons. Mr. Taylor stressed to Mr. Pinder that he needed to apply for whatever he planned to do.

Ms. Grimes explained to the board her explanation on why she believed multiple notices were sent out concerning this JPA. She also said that she hoped this would be her last time doing a joint application with two applications. Mr. Governator said it was his fault the way they went out and that there has been some discrepancy on how to handle this type of cases being there is only one application, but two permits given. A discussion ensued on this and how it could possibly be handled. Mr. Governator asked Mr. Badger for guidance and Mr. Badger said it was up to the individual counties/cites. He added the board could say no and have both applicants apply separately. Mr. Frederick asked Mr. Governator what for his opinion on the board considering, at another meeting, not accepting two applicant applications. Mr. Governator said he would like to do some research first because there were still some benefits on having a combined project.

Mr. Getek asked Mr. Badger if he was okay with the "0" impacts to vegetative wetlands. He said yes, and Mr. Byrd agreed saying he did not see any. Mr. Byrd then asked Mr. Pinder if he felt better now and if he had any other questions. Mr. Pinder asked with his neighbors having rip-rap would he need one in the next 5 years? He said he already had exposed roots and feels he would be in the market for rip-rap. Mr. Bryd told him that he was already in the market for rip-rap even if his neighbors were not installing rip-rap.

**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 Sherie & Glen Stauffer & Michele Rabbitt-Wagner. - VMRC# 2019-0135 for the installation of approximately 213 total feet of marsh toe protection and approximately 64 total feet of sill protection. Both properties are located in the Schooner Bay subdivision of Onancock, VA 23417.**

## **5. OTHER BUSINESS**

### **A. Harvey & Carol Muller III & Andrew & Colleen Best - VMRC# 2017-1717**

#### **Update**

Mr. Governator wanted to update the board on what was going on with this project & the violation. There was a meeting on site with the property owners. The violation was for work being done without a building permit from the county and doing work that was different from what the Wetland's Board approved. Mr. Governator said his staff sent the property owner a Notice to Comply letter stating the work done on both properties was unauthorized. The notice also included that it is typically required that the unauthorized work be removed, site has to be returned to preconstruction grade, any destroyed plants have to be replanted, and the work has to be done within 60 days.

After the onsite meeting, March 1<sup>st</sup>, they agreed on considering withholding enforcement if an after-the-fact permit application, for the work they did with some type of modification to turn it back to what was approved, was submitted. Mr. Governator said the property owners are working with their environmental consultant to move forward and apply. Their deadline is April 11<sup>th</sup>, 2019.

Mr. Frederick asked Ms. Grimes if she would like to give an update. Ms. Grimes said she has talked to both sides and gave them 3 options. Mr. Taylor asked what the issue was with Fisher Marine and if the property owners were willing to go back to the original plan. Ms. Grimes said Fisher Marine was unresponsive and quit. The original plan is an option, buy that the property owners did not want to go back to the original plan.

Ms. Grimes was told that when a storm came and blew the corner of the vinyl bulkhead out they started losing fill material. Once this happened they called in new contractor who said he could put in a bulkhead without needing a permit due to it being an emergency project.

Mr. Getek asked if there would be a new permit hearing and if the neighbors would be notified again. Mr. Governator said yes, they have to follow the typical application process even though the application fees are doubled.

In summary Mr. Governator said the Building Department was serving both property owners with a building code violation and will follow its own enforcement process. If there is not a complete application by April 11<sup>th</sup>, with the fees paid, then Mr. Governator said he will proceed with enforcement, and the 60 day timeframe will go into effect. Mr. Ward asked, to confirmed, if the applicants submit a plan if the board would be flexible. Mr. Governator said yes, enforcement would be suspended if they have an complete application within the first 30 days.

### **B. Debra J. Quinn Life Trust – VMRC# 2018 – 1993**

#### **Complaint**

Mr. Governator said the US Army Corps of Engineers received a complaint about improper fill/destruction of wetlands related to this project, and the Corps contacted the county. The project was done to save the foundation of the house on the property. A site inspection was done and the fill was in good standing and there was sign of destruction to the wetlands in the board's jurisdiction.

During the site visit there was a discovery of an unauthorized construction of a tiny deck. Mr. Governator said there was no wetlands violation, but the deck was not approved. He added that the Town of Chincoteague would be notified and that the dock was wider than most residential piers. Mr. Byrd asked about the height and Mr. Governator said he didn't think it was high enough either.

Mr. Badger said he was not sure if it was in VMRC's jurisdiction yet, but that it was exempt from the Wetlands Board's jurisdiction if it does not affect the flow of water. However, Mr. Badger said they still need to apply to be sure. Mr. Governator said he was going to send a letter stating to remove it or apply for an after-the-fact permit within 30 days it would be reviewed.

**C. Mitigation Fee Suggestion – Ellen Grimes**

Ms. Grimes said she received an email from Ms. Ridley concerning the Quinn mitigation fees. Ms. Grimes said she told Ms. Ridley that she does not get involved with that. After speaking with Mrs. Quinn, Mrs. Quinn said she did not know of the fee or get a letter about it. Ms. Grimes wanted to know if a letter could go stating that a fee is owed and that their permit will be held until it is paid. She did not believe that it should be left up to the contractor/agent to make sure the applicant is aware they have fees to pay. Mr. Taylor said the contractor/agent should let their applicants know what they need to pay after the meeting, and Ms. Grimes said that she did, but that it was not her responsibility.

Mr. Frederick said neither, (applicant or contractor/agent), may know who to write the check out to or where to send it. Mr. Guvernator said his department would be happy to send a letter out. He also added that when the agent is relied on to present/speak on the behalf of the application he expected it to be a turnkey process. Mr. Taylor said a bill could just be sent out. Mr. Guvernator said the new permitting software will send out invoices, but for the time being a letter would be sent out.

**D. Ron Wolf County Forum**

Mr. Getek announced that the guest speaker at Mr. Wolf’s last forum was Mr. Chris Guvernator, and that he did a most excellent job. He wanted to commend and thank him.

**E. Shannon Alexander – Accomack Northampton Planning District Committee**

Ms. Alexander introduced herself and spoke on some of her job duties. Mr. Getek said her name came up in regards to the marsh resilience conference, and that she might be asked to come speak on it. She said a 5 page summary had been compiled on the conference and that she would be happy to bring in another person from the conference and discuss it.

**NEXT MEETING**

The next Wetlands Board meeting is scheduled for Thursday, April 25, 2019 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac.

**6. ADJOURNMENT**

On a motion made by Mr. Ward and seconded by Mr. Getek, the Wetlands Board voted to adjourn the meeting. The meeting was adjourned at 12:26 p.m.

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Earl Frederick, Chairman

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Chontese Ridley, Environmental Permit Specialist