

Virginia: At a meeting of the Accomack County Wetlands Board, held in the Chambers of the Board of Supervisors on the 25th day of October, 2012, A.D.

Members present:

Mr. Earl B. Frederick, Vice Chairman
Mr. C. Lee Davis
Mr. Gene Taylor
Mr. T. Lee Byrd

Member(s) absent:

Mr. George H. Ward, Jr.

Staff present:

Mr. David Fluhart, Secretary
Ms. Gracie A. Milbourne, Recording Secretary

Others present:

Mr. George "Hank" Badger, VMRC
Mr. Robert Cole, USACE

The meeting was called to order by Vice Chairman Earl B. Frederick, and opened to a public hearing at 10 a.m. All applications are approved for a one-year period from the date of this hearing, unless specifically noted. All applicants, speakers and representatives are sworn in before the Board on the following wetlands applications:

This Board is aware of and complies as closely as possible with the objectives of the Virginia Marine Resource Commission's Wetlands Policy of No Net Loss.

Mr. Fluhart introduced two new members to this board: Mr. Gene Wayne Taylor --who was an alternate that has now been deemed a regular member and Mr. T. Lee Byrd.

1). MINUTES:

Mr. Davis made a motion to approve the minutes of the May 24, 2012 and July 19, 2012 meetings as circulated. Mr. Taylor seconded the motion. Ayes: Mr. Frederick,

Mr. Davis, and Mr. Taylor.

2). **CONTINUED FROM JULY 19, 2012:**

An application from John Baier, VMRC# 2012-0751 for the installation of a rip rap marsh toe structure along an eroding salt-marsh at 5371 Main Street, Chincoteague, Virginia. TM# 31B1-A-69

Mr. Luke Britton appeared before the board to represent this application. Detailed drawings as requested at the July 19, 2012 meeting were submitted prior to this hearing. Mr. Britton briefed the board on this project, reviewed the new detailed drawings and asked for the approval of this application.

After a brief discussion, Mr. Davis made a motion to approve this application as presented based on the revised drawings. Mr. Taylor seconded the motion. Ayes: Mr. Frederick, Mr. Davis, Mr. Taylor, and Mr. Byrd.

3). **NEW BUSINESS FROM CANCELLED MEETING:**

1). An application from Stanley Bennett, VMRC# 2012-0089 for the installation of a rip rap bulkhead-toe structure along an existing failing bulkhead at 15224 Pebble Drive, Onancock, Virginia. TM# 83B-A-3A.

Mr. Stanley Bennett appeared before the Board to represent this application. Mr. Bennett described this project and asked for permission to install a 90-foot riprap bulkhead-toe structure to stop further erosion along an existing bulkhead failing in the area of the trees on his property. He indicated that this project will not have any impacts to vegetated wetlands and asked for its approval.

After a brief discussion, Mr. Byrd made a motion to approve this application as presented. Mr. Taylor seconded the motion. Ayes: Mr. Frederick, Mr. Byrd, Mr. Taylor, and Mr. Davis.

2). An application Jim Carney, VMRC# 2012-1088 for the installation of a bulkhead along an eroding shoreline, Sailors Court, Captain's Cove Subdivision, near Greenbackville, Virginia. TM# 5A1-1-928.

Mr. Raymond Britton of BIC, Inc. appeared before the Board to represent this application. He described this 61-linear foot bulkhead project to be located on a manmade canal that will impact 48 square feet of non-vegetated wetlands and 300 square feet of subaqueous and will connect to existing bulkheads on either side with no impacts to vegetated wetlands in this board's jurisdiction.

Mr. Robert Cole from the Army Corp of Engineers appeared before the board and explained delineation history on lots in this development, the transfer of property and ownership, the calculation and rate charged for the non-tidal wetlands that is paid to the Virginia Aquatic Trust Fund and confirmed that mitigation will be charged by the Corps at the non-tidal rate. He also stated that new property owners could ask the Corps for re-delineation that could possibly lower the impacts if justification is given, thereby reducing the cost of mitigation.

After a brief discussion, Mr. Taylor made a motion to approve this application as presented. Mr. Davis seconded the motion. Ayes: Mr. Frederick, Mr. Taylor, Mr. Davis, and Mr. Byrd.

3). An application from Allan Laws, VMRC# 2012-1154 for the installation of a bulkhead on property located in Captain's Cove Subdivision on Salty Way, near Greenbackville, Virginia. TM# 5A1-1-1200.

Mr. Raymond Britton of BIC, Inc. appeared before the Board to represent this application. He described this 61-linear foot bulkhead project to be located on a manmade canal that will impact 300 square feet of subaqueous and will connect with bulkheads on either side with no impacts to vegetated wetlands.

After a brief discussion, Mr. Davis made a motion to approve this application as presented. Mr. Taylor seconded the motion. Ayes: Mr. Frederick, Mr. Davis, Mr. Taylor, and Mr. Byrd.

4). An application from Kevin Rittenberry, VMRC# 2012-1197 for the installation of a bulkhead along an eroding bank on property located in Captain's Cove Subdivision on Sail Court, near Greenbackville, Virginia. TM# 5A3-1-1393.

Mr. Grant Cooley of Shore Engineering appeared before the Board to represent this application. He described this 61-foot bulkhead project to connect with bulkheads on both sides in a straight line with subaqueous impacts and very little non-vegetated wetlands but no impact to vegetated wetlands.

After a brief discussion, Mr. Taylor made a motion to approve this application as presented. Mr. Davis seconded the motion. Ayes: Mr. Frederick, Mr. Taylor, Mr. Davis, and Mr. Byrd.

5). An application from John Markland, VMRC# 2011-0911 for the

installation of a rip rap structure along an existing failing rip rap/eroding bank on property located on Franklin City Road, Greenbackville, Virginia. TM# 5B-3-1-53, et al.

Mr. John Markland appeared before the Board to represent this application and showed pictures of the property from the 1950's and the 1990's. He discussed how his property is disappearing rapidly and how he plans to repair approximately 100 linear feet by re-riprapping the northern end with mountain stones.

After a brief discussion, Mr. Davis made a motion to approve this application as presented. Mr. Taylor seconded the motion. Ayes: Mr. Frederick, Mr. Davis, Mr. Taylor, and Mr. Byrd.

6). An application from Earl Schrag, VMRC# 2012-1216 for the removal of rip rap and filter cloth and reinstall new rip rap at 16015 Bailey Beach Drive, near Onancock, Virginia. TM# 83-5-2.

Mr. Earl Schrag appeared before the Board to represent this application and gave a brief history of the property that he purchased in 1996 and at that time installed riprap with R-2 materials. He asked for permission to remove the old stone and filter cloth and replace with Class II rock in the same footprint for protection of his shoreline.

After a brief discussion, Mr. Taylor made a motion to approve this application as presented. Mr. Byrd seconded the motion. Ayes: Mr. Frederick, Mr. Taylor, Mr. Byrd, and Mr. Davis.

7). An application from Elizabeth Riggan, VMRC# 2012-1148 for the installation of a bulkhead along an existing failing bulkhead on property located in Captain's Cove Subdivision on Bayside DR, near Greenbackville, Virginia.

TM# 5A1-1-1003.

Mr. Edward Moore, representing Mr. Jon Mudd of Mudd Marine Construction, appeared before the Board to represent this application. Mr. Moore asked that Ms. Riggan be given permission to construct a 55-foot bulkhead in front of the existing bulkhead before she constructs a house on this property; otherwise the materials and equipment would have to be delivered on a barge.

A discussion commenced about the new bulkhead, its alignment, and the condition of the existing bulkhead. Mr. Davis and Mr. Frederick stated that they had visited the property and did not find the existing bulkhead to be severely deteriorated and had questions about the alignment of the new bulkhead.

Mr. George “Hank” Badger of VMRC was called to provide comments about this proposal. He indicated that there is non-tidal habitat there now and believed that this board needs to decide if the project is acceptable because of the need versus a want. He further stated he did not have a major concern with the application, but did not look at the existing bulkhead to determine if it was functional or not.

After a brief discussion, Mr. Davis made a motion to approve this application as presented. Mr. Byrd seconded the motion. Ayes: Mr. Frederick, Mr. Davis, Mr. Byrd, and Mr. Taylor.

8). An application from H. Dean Fisher, VMRC# 2012-1264 for the after the-fact installation of a community pier with boat lifts, pilings and an open-sided boat house on property located at 3418 Main Street, Chincoteague, Virginia. TM# 30A3-A-73 et al.

Ms. J. Stacey Hart, Agent for H. Dean Fisher, contacted Mr. Fluhart prior to this

meeting and asked that this application be postponed until next meeting.

Mr. Davis made a motion to continue this application until next meeting as requested. Mr. Taylor seconded the motion. Ayes: Mr. Frederick, Mr. Davis, Mr. Taylor, and Mr. Byrd.

4). NEW BUSINESS:

1). An application from Arthur M. Bailey, Jr. & Linda M. Bailey, VMRC# 2012-1401, for the installation of riprap bulkhead toe protection with riprap return in front of an existing failing concrete bulkhead at 30361 Broughton Lane, near Pungoteague, Virginia. TM# 99-A-84 & 88.

Ms. Ellen Grimes of CRM LLC appeared before the board to represent this application. Ms. Grimes indicated that the existing concrete bulkhead in one area is experiencing leakage and in lieu of replacing it as a wooden or another concrete structure, the Baileys want to place approximately 80-foot of rip rap with a 10-foot return wall in front of it for stabilization to keep it from falling forward and continuing to leak the fill behind it. She stated that this project would be channelward of the existing structure and would not impact any vegetated wetlands.

After a brief discussion, Mr. Taylor made a motion to approve this application as presented. Mr. Byrd seconded the motion. Ayes: Mr. Frederick, Mr. Taylor, Mr. Byrd, and Mr. Davis.

2). An application from Jacob Brentzel, Jr., VMRC# 2012-1457, for the installation of replacement bulkhead within 2-foot channelward of an existing failing retaining wall at 36034 Northam RD, Machipongo Shores, near Quinby, Virginia. TM# 121C-1-7-22 & 23.

Ms. Ellen Grimes of CRM LLC appeared before the Board to represent this application. Ms. Grimes asked for the approval to replace approximately 112-foot of a plywood-type bulkhead structure with piles in front- in the existing footprint- with the T-head remaining the same.

A discussion about the vegetated wetlands revealed that approximately 50 square feet of new vegetated wetlands will be impacted rather than the 100 square feet as previously discussed.

Mr. Jacob Brentzel appeared before the board and provided additional information about the project and agreed to pay the mitigation fees as required.

After a brief discussion about the construction specs of the piles without tiebacks, Mr. Davis made a motion to approve this application with the condition that new drawings be submitted with the description of the bulkhead showing pilings 6' on center, a final decision of 1-foot of 2 foot in front of bulkhead, and with mitigation up to 100 square feet. Mr. Byrd seconded the motion. Ayes: Mr. Frederick, Mr. Davis, Mr. Byrd, and Mr. Taylor.

3). An application from Kevin M. McDaniel, VMRC# 2012-1017, for the installation of a bulkhead with backfill along property located on a manmade canal in Captain's Cove Subdivision, Lot# 1439, High Sea Drive, near Greenbackville, Virginia. TM# 5A3-1-1439.

Mr. Bill Davis, Agent, appeared before the board to represent this application. He described this 100-foot of bulkhead project to be located on a manmade canal and asked for the approval of this application.

Mr. Fluhart informed the board that this project is one concerning the tide range

and the non-tidal versus the tidal aspect of the property that has been determined through a second survey that the elevation and the distance it extends into the canal is subaqueous and is out of the local board's jurisdiction. He referred to a letter from Mr. Robert Cole of the Army Corp which placed a condition on this project that mitigation fees must be paid into the Virginia Aquatic Resources Trust Fund to make this project acceptable to his agency but did not see where the square footage was mentioned.

Mr. Davis stated that the square footage for the mitigation is .022 acres and circulated a letter from The Nature Conservancy concerning the mitigation credits available for purchase for this project.

Mr. Hank Badger questioned the drawings submitted that stated impacts to vegetated wetlands for clarification.

After a brief discussion, Mr. Davis made a motion to approve this application as presented. Mr. Byrd seconded the motion. Ayes: Mr. Frederick, Mr. Davis, Mr. Byrd, and Mr. Taylor.

4). An application from David Felt, VMRC# 2012-1147, for the installation of a bulkhead with backfill along property located on a manmade canal in Captain's Cove Subdivision, Lot# 1438, 3394 High Sea Drive, near Greenbackville, Virginia. TM# 5A3-1-1438.

Mr. Bill Davis of Ocean Land Trust Ltd appeared before the Board to represent this application. Mr. Davis indicated that he is familiar with this project as it adjoins Mr. Kevin McDaniel's property and is basically the same situation.

Mr. Fluhart stated that according to the Army Corps' letter, Mr. Felt has to provide compensation for mitigation of 0.07 acres into the Virginia Aquatic Resources

Trust Fund.

After a brief discussion, Mr. Davis made a motion to approve this application as presented. Mr. Taylor seconded the motion. Ayes: Mr. Frederick Mr. Davis, Mr. Taylor, and Mr. Byrd.

5). An application from Mark Dennin, VMRC# 2012-1204, for the installation of riprap escarpment and marsh toe protection along an eroding shoreline on Finney's Creek at 23449 Holly Cove RD, near Onancock, Virginia. TM# 83D-1-12.

Mr. Chris McCabe, consultant for Coastal Compliance Solutions, appeared before the board to represent this application. He described this project to be marsh toe protection and not a full rip rap shoreline and referred to pictures which showed severe erosion on the northeasterly portion of the lot. He also mentioned that some trees would be removed as part of the installation of the low-profile escarpment and toe protection.

Mr. Frederick asked questions about the drawings and the photos and asked about the connections and impacts to vegetated wetlands.

Mr. Hank Badger asked questions about the transition between the marsh toe sill and escarpment and indicated that the drawings do not depict what is there. Mr. McCabe agreed to submit revised drawings.

After a brief discussion, Mr. Byrd made a motion to approve this application with revised drawings. Mr. Davis seconded the motion. Ayes: Mr. Frederick, Mr. Byrd, Mr. Davis, and Mr. Taylor.

ADJOURNMENT:

Mr. Davis made a motion to adjourn at 11:50 a.m. Mr. Taylor seconded the

motion. Ayes: Mr. Frederick, Mr. Davis, Mr. Taylor and Mr. Byrd.

Mr. Earl B. Frederick, Vice Chairman