

ACCOMACK COUNTY WETLANDS MINUTES OF SEPTEMBER 26, 2019

At a meeting of the Accomack County Wetlands Board held on the 26TH day of SEPTEMBER 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 Ward, Vice Chairman
Mr. Timothy Getek
Mr. Gene Wayne Taylor
Mr. David Elebash

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

On a motion made by Mr. Ward and seconded by Mr. Taylor, the Wetlands Board voted to approve the agenda.

Mr. Frederick said there was one correction that needed to be made. Item number 5 on the agenda "Next Meeting Date" should have been *October 24, 2019*.

3. MINUTES

A. July 18, 2019

Mr. Getek pointed out on page five, second paragraph from bottom, *minor* should have been *monitored*.

B. August 22, 2019

Mr. Getek pointed out on the last page, where he discussed the Captain's Cove CERT meeting, it should have been spelled "*CERT*." Also, the second line said it was "*very attended*" and it should have said it was "*well attended*."

On a motion made by Mr. Getek and seconded by Mr. Taylor, the Wetlands Board voted to approve the minutes of the July 18, 2018 and the August 22, 2019 meeting.

4. NEW BUSINESS

A. Thomas F. Kalil – VMRC# 2019 – 1400

Broadside Dr.

To construct a bulkhead with back fill to prevent further erosion. The property is located in the Captain's Cove subdivision of Greenbackville, VA 23356, Tax Map #5A1-1-1228.

Mr. Raymond Britton, (BIC, INC), appeared before the Wetlands Board and was sworn in by Chairman Frederick. Mr. Britton said the project would impact about 480 feet of subaqueous bottom. He said he would be connecting bulkhead to bulkhead causing more encroachment than usual.

Mr. Frederick asked Mr. Britton if he had cleared the encroachment with Captain's Cove and he replied yes. Mr. Britton added that Captain's Cove contacted him to do the work.

Mr. Getek asked Mr. Britton if he planned on saving the remaining pine trees. Mr. Britton said he would be taking them out. Mr. Getek said he remembered a similar project from four years ago where there were some vegetative wetlands near the house, but it looked to be gone now. He said he did see a small spot, (2-3 square feet), that could potential be vegetative wetlands, and asked Mr. Britton for his thoughts on it. Mr. Britton said he would be leaving there. Mr. Getek also asked if the bulkhead would be in line with the rest..., and Mr. Britton interjected saying it would be connected to the bulkhead on the right and go all the way down to the one on the left. Mr. Getek said a lot of backfill would be used then. Mr. Taylor questioned if this would be covering two lots and Mr. Britton said no. He would just be connecting on one side for now.

Mr. Getek suggested not connecting in line to not use so much backfill. Mr. Britton said there would be angles in the bulkhead if done that way. Mr. Getek then said when repairs come in they are usually done two feet channel ward of the existing, and Mr. Britton said there was no existing bulkhead there. Mr. Getek asked the board for their thoughts.

Mr. Taylor felt it would be easier to pay \$36.00 into the mitigation fund. They also spoke on the amount of erosion in the area. Mr. Getek asked the board how they felt about the amount of backfill going in. He stated that he thought they did not give land back. Mr. Taylor said he did not think it was a land grab, but more to keep everything in line and to stop erosion.

George Badger, (VMRC), appeared before the Wetlands Board and was sworn in by Chairman Frederick. Mr. Getek asked Mr. Badger for his opinion on the small amount of vegetative wetlands that he had seen in the corner. Mr. Badger said he came up with 4 square feet.

Mr. Ward asked Mr. Britton if he was sure the lot next door was going to put in a bulkhead. Mr. Britton said they called him, but the home owners were trying to find the money to do it. Mr. Fredrick asked if the return wall adjacent to the Nixon lot would go into the uplands now, and Mr. Britton said that was correct unless Mr. Nixon decides to do his.

Mr. Getek asked to confirm that the return wall would be 5 feet into the uplands and Mr. Britton responded yes to stop erosion. Mr. Frederick asked, since Mr. Britton planned to wait on the Nixon's', if he wanted to request more than one year to get the work done. Mr. Britton said no.

On a motion made by Mr. Getek and seconded by Mr. Taylor, the Wetlands Board voted to issue a permit (valid for (1) year) for Thomas F. Kalil – VMRC# 2019 – 1400 to construct a bulkhead with back fill to prevent further erosion with a mitigation fee of \$36.00 for 3 square feet of impacts to vegetative wetlands. The property is located in the Captain's Cove subdivision of Greenbackville, VA 23356, Tax Map #5A1-1-1228.

B. Thomas Seato, Jr. - VMRC# 2019-1504

Seaview St.

To construct a vinyl bulkhead in front of existing rip-rap stone to have boat access. The property is located in the Captain's Cove subdivision of Greenbackville, VA 23356, Tax Map #5A1-1-791.

Mr. Raymond Britton, (BIC, INC), appeared before the Wetlands Board on behalf of the applicant and had already been sworn in by Chairmen Frederick. Mr. Britton said the stone rip-rap was approved four or five years ago. He said that he did the work, but he was against the

project. Now that the lot has been sold the new owner wants boating access to the lot. Mr. Britton said it would be bulkhead to bulkhead and that he would only be encroaching 3-5 feet in spots. He also added that the rocks would be removed.

Mr. Frederick said there was no erosion there and wanted to know the need for the bulkhead. Mr. Britton said when the Cove dredges there will be erosion. Mr. Frederick asked if there was a timeline on the dredging and Mr. Britton said no. Mr. Frederick said if this was just for boat access a pier with a T-Head would suffice over the existing conditions. He did not see a need for a bulkhead at the time. Mr. Britton said Mr. Seato is the only one without one.

Mr. Getek said this was a canal situation not bay. He said the idea of building a dock with a pier would not be allowed in Captain's Cove. Mr. Getek said he did not see any vegetative wetlands, but asked Mr. Badger for his view. Mr. Badger said no, but there was intertidal area against the stone. Mr. Getek asked if that would be a problem.

Mr. Elebash asked to confirm, due to erosion, the land had receded and that putting in a bulkhead "in line" the owner would be gain some of the water. Being that it is a manmade canal would this not be a problem for the US Army Corps of Engineers. Mr. Getek said the fill might be an issue. Mr. Britton said going back 25 years ago all the bulkheads were set to have a straight alignment on the canal lots. Mr. Getek chimed in to say that he remembered the Corps sending out letters stating the bulkheads should be placed "in kind/in line" and 2 feet channel ward for the more recent ones to prevent soil from going into the canal.

Mr. Getek said his concern was the intertidal area that Mr. Badger mentioned. He said the bulkhead goes in that area would not be nourished by any water coming into the area. Mr. Getek asked Mr. Badger if that area needed to be mitigated. Mr. Badger said that it was non-vegetative and up to the board to decide.

Mr. Frederick asked if a person wanted boat access and a dock could not be built what were the options if a bulkhead is permitted. Mr. Britton said fill would go in behind it so that you could walk to the boat. Mr. Badger asked if a wharf, parallel over the stones, would be allowed. Mr. Getek said he did not think there was anything like that in the Cove. Mr. Taylor said to do that pilings would still pilings on the outside of the rock. Mr. Badger said this does exist in the Cove at the Marina. Mr. Britton said there is a bulkhead at the Marina.

Mr. Ward asked how long did the erosion take between the bulkhead and on either side of what proposed. Mr. Britton said it depends on storms and boat traffic. Storms come in from the Northeast and taking the fill out. Mr. Ward then asked if there had been any erosion since the rocks had been put in, and Mr. Britton said a little.

Mr. John Ward, (Captain's Cove), was sworn in. Asked how a person would have access to a boat and Mr. Britton said there was only a couple feet of water there. Mr. John Ward then said there were no home on Seaview and Mr. Britton said there was a home on the corner. It was then stated that the referenced home was actually on Castaway. Mr. Britton said that Mr. Seato would be building a home on his lot. This confused Mr. John Ward so Mr. Getek explained to him that landowners had been bulk heading their lots to protect their properties. Mr. Getek said the Captain's Cove Board of Directors mandated that all lots, regardless if they had a house or not, be bulkheaded because the sand and dirt was going into the canals. Mr. Frederick asked how recent was the mandate and how did the stone wall get past them. Mr. Getek said it was always there, but it was not always enforced. Mr. Britton said it was fifteen years ago.

Mr. Getek said the Cove dredges and if the lots are not bulkheaded sand goes into the canal costing the other HOA members more money.

Mr. John Ward asked about the fill and said he did not think that the Corps liked fill anywhere. Mr. Getek explained to him the difference between the bay and manmade canals and the Corps' jurisdiction. Ms. Grimes chimed in to say that everything in the canal is in the Corps' jurisdiction.

Ellen Grimes, (CRM, LLC), appeared before the Wetlands Board and was sworn in by Chairman Frederick. Ms. Grimes also said that if Corps do not see erosion they would not give approve a bulkhead. Mr. Britton said the has never been turned down for a bulkhead in Captain's Cove and he had done 90% of them. Mr. Getek said he thought JPAs were seen by all agencies and that the Corps seen the diagrams/drawings and did not have any major questions or issues. Mr. Britton said he had not heard anything. Mr. Guvernator said it was currently being reviewed.

Mr. Chris Guvernator, (Environmental Programs), appeared before the Wetlands Board and was sworn in by Chairman Frederick. Mr. Guvernator said if someone is called to the podium they should be speaking directly to the board and the board with interact with that individual until they have been dismissed. Mr. Guvernator said he had not yet received any response from the Corps on this application. Mr. Badger stated if the Wetlands Board denies an application the Corps is done with it. If the Wetlands Board approves an application and the Corps denies, that is the end of the application. Both parties have to approve. Mr. Badger also stated that VMRC reviews all Wetlands Board decisions. If they feel the Wetlands Board made an error in their decision making it will be appealed by VMRC.

Mr. Taylor asked if VMRC sends out the applications and Mr. Badger said yes. Mr. Getek asked to confirm that even if they were to approve this application, with the backfill, that the Corps could say no. The response was yes.

Mr. Guvernator said, from a staff perspective, he had to points:

1. The application was presented for boating access to the manmade canal, and no alternatives were discussed in the application. He said the board's decision was not to be made on Captain's Coves' code, but on need based on the application.
2. Staff site visit showed no indication of erosion

Mr. Taylor asked if fill needed to be put in to build a house, and Mr. Guvernator he was not sure. No building permit had been put in. Mr. Britton said that there would be. Mr. Britton also said that the rock wall has sunk 8-10 inches and the sill about 2 feet.

Mr. Getek said it came down to what was a necessity. Mr. Taylor said he would prefer the rock, but it would be taking it out of the norm. Mr. Frederick said he did not see the need for a bulkhead.

On a motion made by Mr. Getek and seconded by Mr. Taylor, the Wetlands Board voted to issue a permit (valid for (1) year) for Thomas Seato, Jr. - VMRC# 2019-1504 to construct a vinyl bulkhead in front of existing rip-rap stone to have boat access. The property is located in the Captain's Cove subdivision of Greenbackville, VA 23356, Tax Map #5A1-1-1228.

C. Donna L. Martinelli – VMRC# 2019-1540

Bayside Dr.

To replace a leaking wooden bulkhead with a vinyl structure 2 feet channel ward of the existing bulkhead, and a 12 feet return wall. The property is located in the Captain's Cove subdivision of Greenbackville, VA 23356, Tax Map #5A1-1-1008.

Ms. Ellen Grimes, (CRM, LLC), appeared before the Wetlands Board and was sworn in by Chairman Frederick. Ms. Grimes said the lot was already bulkheaded. It is an old wooden structure that is leaking. Ms. Grimes said they wanted to remove the one and replace no more than two feet channel ward, and not more than 10 inches higher. The fill will go in between the two bulkheads and be spread on the lot. The return walls will also be replaced and a new return wall will be placed between the two lots.

The applicants want to do this because the tiebacks and the deadmen would be under where a future house would go which would cause issues. Mr. Getek asked if the neighbor was aware that this bulkhead would be 10 inches higher. Ms. Grimes said she was sure that they knew.

On a motion made by Mr. Getek and seconded by Mr. Ward, the Wetlands Board voted to issue a permit (valid for (2) years) for Donna L. Martinelli – VMRC# 2019-1540 to replace a leaking wooden bulkhead with a vinyl structure 2 feet channel ward of the existing bulkhead, and a 12 feet return wall. The property is located in the Captain's Cove subdivision of Greenbackville, VA 23356, Tax Map #5A1-1-1008.

D. Cynthia Freeman – VMRC# 2019-1550

Bayside Dr.

To replace a leaking wooden bulkhead with a vinyl structure 2 feet channel ward of the existing bulkhead, and a 12 feet return wall. The property is located in the Captain's Cove subdivision of Greenbackville, VA 23356, Tax Map #5A1-1-1008.

Ellen Grimes, (CRM, LLC), appeared before the Wetlands Board and was sworn in by Chairman Frederick. Ms. Grimes said it was brought to her attention that she put the vegetative wetlands impacts at 72 feet, but it should have been 7 square feet. Ms. Grimes said the bottom of the bulkhead had been kicked out by the currant. Mr. Ward chimed in to say that it was not deep enough. The applicant contacted her before the meeting saying that it had gotten worse. Ms. Grimes said she suggested to the contractor that they put some sheathing in the pocket that had developed behind the bulkhead.

Mr. Taylor asked if this would be a repair permit since the bottom blew out. Mr. Badger said yes if it was something done right away and had not lingered. Ms. Grimes said the applicant told her a board member, during their site visit, mention putting in a rip-rap toe. Mr. Frederick said that he brought it up to Ms. Freeman. He said he did not recommend it, but that it would help protect her bulkhead. Ms. Grimes agreed. She asked if she amended the application to add the rip-rap toe scower in front of the front section, would it require re-advertising the application. Mr. Badger said yes, it would additional impact and there could be impacts to vegetation on the right side.

Ms. Grimes asked if she could modify the application, advertise and come back before the board. Mr. Badger said yes.

On a motion made by Mr. Taylor and seconded by Mr. Ward, the Wetlands Board voted to issue a permit (valid for (2) years) for Cynthia Freeman – VMRC# 2019-1550 to replace a leaking wooden bulkhead with a vinyl structure 2 feet channel ward of the existing bulkhead, and a 12 feet return wall with the condition that \$84.00 be paid into the mitigation for 7 square feet on

impacts to vegetative wetlands. The property is located in the Captain's Cove subdivision of Greenbackville, VA 23356, Tax Map #5A1-1-1008.

5. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, October 24, 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. Getek, the Wetlands Board voted to adjourn the meeting.

The meeting was adjourned at 11:25 a.m.

Earl Frederick, Chairman

Chontese Ridley, Environmental Permit Specialist