

ACCOMACK COUNTY WETLANDS MINUTES OF APRIL 28, 2022

At a meeting of the Accomack County Wetlands Board held on the 28TH day of APRIL 2022 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. Gene Wayne Taylor

Mr. T. Lee Byrd

Mr. Timothy Getek

Mr. David Montgomery, Alternate

Others Present:

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

Ms. Chontese Ridley, Environmental Programs Permit Specialist

Ms. Tiffany Berg, Virginia Marine Resources Commission (VMRC)

Mrs. Beth Nunnally, Environmental Planner II

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. Frederick pointed out that "Other Business" in front "New Business" had been moved up on the agenda so they could talk about the compensation fees first.

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

3. MINUTES

A. March 24, 2022

On a motion made by Mr. Getek and seconded by Mr. Ward, the Wetlands Board voted to approve the March 2022 minutes.

4. OTHER BUSINESS

A. Change in Compensation Fees

Mr. Chris Guvernator appeared before the Wetlands Board and was sworn in by Chairman Frederick.

Mr. Guvernator said he wanted to confirm that the information that was sent out to confirm the compensation fees. On April 20, 2022 the Board of Supervisors voted unanimously to change the compensation fees based on the Wetlands Board's recommended motion to them.

The vegetated wetlands fee was increased from \$12.00 to \$18.00 a square foot in association to what the Makemie Monument Project cost. The non-vegetated wetlands fee is new and was set at \$18.00 per square foot.

Mr. Guvernator also said the Board (of Supervisors) made the comment that this was in line with the other municipalities in the Chesapeake Bay region were charging as well.

The changes went into effect at that meeting as the motion was approved, and applies to all future permits. He added that notices had been sent out to points of contact for all active JPAs, (Joint Permit Applications), and to the agents that are normally represented here.

The County Attorney stated there was no grandfathering or delayed application of the new fees in the Board of Supervisors' motion. Any pending applications are subject to the new fees. All permits issues from now forward will include that fee.

Mr. Guvernator said staff felt that all current applicants should be given the opportunity to continue their JPA after the public hearing today to consider the impact of those fees on their project.

B. Willows Branch Extension Request VMRC# 2021-0404

Mr. Guvernator said the permit was due to expire the previous week. He said he believe he received their request prior to it expiring, and recommend a 1-year extension.

Mr. Fredrick asked Mr. Guvernator if he could give a brief summer of Willows Branch.

Mr. Guvernator said he had the JPA and the site photos. There was a shoreline erosion issue where portions of the proposed solution was riprap and coconut logs.

Mr. Ward asked if this was the first extension and Mr. Guvernator said yes.

Mr. Frederick asked if anything had changed on site of note that would warrant not approving an extension. Mr. Guvernator said not that he was aware of. He also added that he was receiving a higher volume of people requesting extensions due to contractor workloads, materials being available, and covid related issues with their workforce.

A discussion ensued.

On a motion made by Mr. Taylor and seconded by Mr. Byrd, the Wetlands Board voted to issue an extension for 1 year for Willows Branch Extension VMRC# 2021-0404, proposed installation of rip rap, re-dressing area subject to shoreline erosion, with coir logs to address milder erosion. The property is located in the Smuggler's Cove subdivision on Chincoteague Island, VA 23306, tax map#(s) 31-8-21.

Mr. Guvernator added that he was creating a 1 page form that amends the original physical permit.

Mr. Frederick asked if this extends the project one year passed today's date or from when it expired. Mr. Guvernator said in the past it was always stated, "1 year from today's date."

Mr. Byrd said he would like to know for sure how it is supposed to go.

Mr. Guvernator said he would discuss it with the County Attorney.

5. OLD BUSINESS

A. Blue Camp Inlet View LLC VMRC# 2021-2371

Installation of a 175 feet long by 10 feet wide community campground multiuse pier to a 24 feet wide by 100 feet long "T" platform

Mr. Guvernator gave a quick summary of the project. He added that even though it was a pier it had to be heard due to it being a commercial pier.

Mr. Chris McCabe, (Coastal Compliance Solutions, LLC), appeared before the Wetlands Board on behalf of the applicant, and was sworn in by Chairman Frederick.

Mr. McCabe thanked the board for allowing them to delay and that his firm did not like coming before the Board unless they have a strong understanding of the position of the Army Corps of Engineers and VMRC.

Mr. McCabe said this was a commercial pier for the redevelopment of the Inlet View Campground. They were issued a permit last year for riprap and that work was pretty much wrapped up. Work will be starting next month to finish out the campground and this project is one of those components.

Mr. McCabe said the applicant wanted a nice commercial size pier for the campground so that folks who were traveling up and down the intercostal waterway could stop, spend the night, meet friends and family who were already there, and continue on.

Mr. McCabe said a floating dock was added for kayaks and canoes for folks who would be at the campground who wanted to utilize it.

Mr. McCabe added that the platform would also allow for crabbing, fishing, and recreation.

Mr. McCabe said they had been given authorization from the CORPS of Engineers under their Regional Permit 18.

CHAIRMAN FREDERICK OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if there was anyone who wanted to comment on application 2021-2371.

No one made a request to communicate.

CHAIRMAN FREDERICK CLOSED THE FLOOR TO PUBLIC COMMENT

Mr. Taylor said that the project was mostly in Ms. Berg jurisdiction, (VMRC), and wanted to hear what she had to say.

Mr. Frederick said from one of the original maps it looked like there was a relatively small area where the Wetlands Board had jurisdiction. The mean low water was close to where the riprap would go in.

Mr. Frederick asked if there was currently any impact to vegetation.

Mr. McCabe not for the pier.

A discussion ensued.

Mr. Frederick asked Mr. McCabe if he was claiming any wetlands mitigation needs for where the project crosses the Wetlands Board's jurisdiction.

Mr. McCabe said no, not for the pier, and that they had already paid the fee for the riprap.

Mr. Taylor said he wanted to know how Ms. Berg felt about the project.

Ms. Tiffany Berg, (VMRC), appeared before the Wetlands Board and was sworn in by Chairman Frederick.

Mr. Taylor asked Ms. Berg if she had any problems or concerns with the project.

Ms. Berg said as far as she knew, no, and that they were moving forward with the permit on their end.

On a motion made by Mr. Taylor and seconded by Mr. Ward, the Wetlands Board voted to issue a permit (valid for (1) year, for Blue Camp Inlet View LLC VMRC# 2021-2371, proposed installation of a 175 feet long by 10 feet wide community campground multiuse pier to a 24 feet wide by 100 feet long "T" platform. The property is located on Chincoteague Island, VA 23336, tax map#(s) 45-A-2.

NEW BUSINESS

A. Darryl Lilliston VMRC# 2021-1294

Proposed construction of a 265 feet vinyl bulkhead to replace the existing failing wooden bulkhead

Mr. Norman Pitt, (Cornerstone Environmental), appeared before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Frederick.

Mr. Frederick asked Mr. Pitt if he was fully aware of the changes to the mitigation fees and Mr. Pitt said yes.

Mr. Guvernator gave a summary of the project and added that there was a safety issue with the working waterfront.

Mr. Pitt said this was a previously approved project, but for some unknown circumstances the applicant let his permit run out and had to resubmit. He added there had been several changes to the law by the resubmittal time, but with staff's help, they were able to get this project to the board.

Mr. Pitt said that existing bulkhead had not just failed, but that it was completely gone due to multiple storms.

The site photos were put up for everyone to see.

Mr. Pitt said the applicant really did not want to do anything different from what was already there. He mentioned that they needed to move 2 ½ feet channelward due to the bolt pattern. They would not have enough room if not and they did not want to keep that in the design.

Mr. Pitt said the applicant would be replacing the concrete behind the bulkhead and clean sand would be used.

Mr. Taylor asked Mr. Pitt what he non-vegetated wetlands impacts were. Mr. Pitt said there was a new measurement and that it was 500 square feet.

CHAIRMAN FREDERICK OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if there was anyone who wanted to comment on application 2021-1294.

No one made a request to communicate.

CHAIRMAN FREDERICK CLOSED THE FLOOR TO PUBLIC COMMENT

Mr. Getek asked why a Living Shoreline was not being proposed.

Mr. Pitt said it was a seafood commercial site with large vessels coming in to load and unload, and that Mr. Lilliston also kept storage in that area. Mr. Pitt said they did not want to put something there that know would get destroyed later on. .

Mr. Getek asked the other Board members if they thought that was a legitimate discussion in regards to or as one of the caveats for putting away the Living Shoreline. He them for their opinion.

Mr. Byrd said it would defeat the purpose of a Living Shoreline if they were going to be bringing in boats, and that it would not last. He did not think a Living Shoreline in that area would work.

A discussion ensued.

Mr. Getek asked staff if the 500 square feet of non-vegetated was reasonable in their estimates.

Ms. Beth Nunnally appeared before the Wetlands Board and was sworn in by Chairman Frederick.

Ms. Nunnally confirmed saying yes and that she went out to double check.

On a motion made by Mr. Ward and seconded by Mr. Byrd, the Wetlands Board voted to issue a permit (valid for (1) year, for Darryl Lilliston VMRC# 2021-1294, proposed construction of a 265 feet vinyl bulkhead to replace the existing failing wooden bulkhead with the following conditions:

- 1. Pay \$9,000.00 into the mitigation fund for 500 square feet of impacts to vegetated wetlands*

The property is located in Wachapreague, VA 23480, tax map#(s) 113A-A-215, 113A-A-214, 113A-A-213, 113A-5-3A, and 113A-5-3.

B. Elaine McNure VMRC# 2022-0398

Proposed replacement of the existing failing bulkhead in the same footprint

Mr. Guvernator gave a summary of the project and brought up the site plan.

Mr. Raymond Britton, Jr., (BIC, Inc.), appeared before the Wetlands Board on behalf of the applicant, and was sworn in by Chairman Frederick.

Mr. Britton stated this was the third time he had brought this project before the Board, with it being approved by the Board times, but it was denied across the bay, (VMRC). He was hoping he had a better chance at approval this time.

Mr. Britton said he had a surveyor come out and that 1 ½ (x) the tide rage was behind the bulkhead, which would put it out of the Board's jurisdiction, but was told it was wrong.

Mr. Byrd interrupted Mr. Britton, but apologized for doing so, telling him that Ms. Berg needed to know what was going on.

CHAIRMAN FREDERICK OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if there was anyone who wanted to comment on application 2022-0398.

Mr. Chris McCabe

Mr. McCabe said he was speaking on behalf of his firm and not speaking on behalf of Captain's Cove Gold and Yacht Club or for the McNure's.

Mr. McCabe said what was approved with the fee increase for vegetated and non-vegetated tidal wetlands impacts, in his opinion, helps resolves the concerns of serviceable structures in the eyes of the Corps of Engineers.

Mr. McCabe stated that his firm was in the process of providing an updated jurisdictional determination for all of Captain's Cove.

Mr. McCabe gave more insight on that process and the work that had been done with the Corps. He said he wanted the Board to have that background, but again confirmed that he was only speaking on the behalf of his firm.

A discussion ensued.

CHAIRMAN FREDERICK CLOSED THE FLOOR TO PUBLIC COMMENT

Mr. Getek said he had a question for the VMRC rep based on what Mr. McCabe had sated, in terms of serviceable structures and living shorelines. Mr. Getek wanted to know how the Board should view those things and how to proceed.

Ms. Berg asked Mr. Getek if he could rephrase the question.

Mr. Getek said in the past if there was a dilapidated bulkhead that was pretty much destroyed, it would possible have to be considered for a living shoreline. He said what he just heard was that if it was serviceable in any extent, it could be a legitimate way to re-putting the bulkhead back in.

Mr. Getek asked Ms. Berg how they should look at it. Should it be looked at as a potential place for a living shoreline or just forget that, and say it is a serviceable bulkhead and replace it.

Ms. Berg said they, (VMRC), look at serviceable structures and maintenance differently than the Corps does. She said they do have maintenance provisions to fix or repair serviceable or usable structures.

Ms. Berg said where they might divert [diverge] from the way the Corps looks at serviceable structures is when there are developed wetlands behind the wall. In that case it should go back through the whole thought process.

Ms. Berg added that she could not tell the Board what they should or should not do.

A discussion ensued.

Mr. Frederick asked Mr. Guvernator and Ms. Nunnally if they could confirm the vegetation that did or did not exist along the shoreline.

Ms. Nunnally said there was 25 square feet of vegetated and 906 square feet of non-vegetated wetlands impacts.

A discussion ensued.

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 Elaine McNure VMRC# 2022-0398, proposed replacement of the existing failing bulkhead in the same footprint with the following conditions:

- 1. Pay \$16,758.00 into the mitigation fund for 25 square feet of impacts to vegetated wetlands and for 906 square feet impacts to non-vegetated wetlands*

The property is located in Greenbackville, VA 23356, tax map#(s) 5A1-1-765.

C. Old Dominion Electric Cooperative VMRC# 2022-0409

Proposed under-grounding of approximately 1,470 feet of transmission line in new ROW in front of Runway #35 and remove approximately 0.5 miles of existing overhead transmission line

Mr. Guvernator went over the project description adding that they, (ODEC), was there due to the potential of short term tidal wetland impacts related to pulling out the old lines.

Mr. Corey Gray, (Santec), appeared before the Wetlands Board on behalf of the applicant, and was sworn in by Chairman Frederick.

Mr. Gray this was just across from Wallops Flight Facility, and that there was an existing line that extended out to the marsh. He said he was going to be removed and that it could not be extended up due to flight clearance issues. Instead, there was going to be an underground line put in adjacent to 175.

Mr. Gray said there was a little under half a mile, (69kb), double circuit line running both on the Fish and Wildlife Refuge and NASA's property.

Mr. Gray stated that was some non-tidal wetland impacts associated with the new underground line, but no tidal impacts.

Mr. Gray added there was half a mile of line to be removed out of the marsh, and that all impacts were temporary. He also mention that the project was approved one year ago by the SCC.

Mr. Gray then showed the Board a map of where the potential impacts were.

Mr. Gray said once construction was done if there were any compressions in the marsh or vegetation damaged, they will replant and monitor.

Mr. Byrd asked if there would be a certain amount of years for the monitoring.

Mr. Guvernator said if it was not in there, (application), then the motion could be subjected to a 3-year planting and monitoring plan.

A discussion ensued.

CHAIRMAN FREDERICK OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if there was anyone who wanted to comment on application 2022-0409.

No one made a request to communicate.

CHAIRMAN FREDERICK CLOSED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if the poles would be cut at the top or if the stubs would be pulled out as well.

Mr. Gray said the intent is to cut the pole at the surface and leave it down below. Taking it out would cause more disturbance and then bring in something to fill the holes.

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted to issue a permit (valid for (1) year, for Old Dominion Electric Cooperative VMRC# 2022-0409, proposed under-grounding of approximately 1,470 feet of transmission line in new ROW in front of Runway #35 and remove approximately 0.5 miles of existing overhead transmission line with the following conditions:

1. 1-year monitoring period

The property is located in Wallops Island, VA 23337, tax map#(s) 28-A-75.

***ON A MOTION MADE BY MR. WARD AND SECONDED BY MR. GETEK THE BOARD
VOTED TO TAKE A 5 MINUTE RECESS***

Meeting reconvened at 11:30AM

D. William Peel VMRC# 2022-0590

Proposed installation of a 52 in wide by 100 feet wide non-commercial open pile private pier including a 10 feet by 20 feet T-Head & proposed boardwalk.

Mr. Guvernator gave a summary of the project. Mr. Guvernator added that this project was only coming before the board due to the proposal of a boardwalk parallel to the shoreline over top of tidal wetlands.

Mr. Aaron Matthews, (Mark Ross Construction), appeared before the Wetlands Board on behalf of the applicant, and was sworn in by Chairman Frederick.

Mr. Matthews said the walkway going above the shoreline was going to be above the shading zone.

Mr. Frederick asked what was the width of the walkway.

Mr. Governator said it was 5 feet out from the bulkhead and showed Mr. Frederick the application drawing of the shading area.

Mr. Frederick asked if that qualified for no shading.

Mr. Governator said it would if it was perpendicular to the waterfront, but did not know about parallel due to not having the situation before.

Ms. Nunnally said they were concerned about it because the bulkhead is perpendicular to the sun's rise and fall. The sun would come up shading the grass and close to noon the grass would start receiving sunlight. Sunlight would be blocked by the bulkhead until that time. Adding the walkway would decrease that amount.

Mr. Taylor said thought 52 inches wide was good and would make more light come through. He also said that with the house being so close, he did not see how adding the walkway would make the shading any worse than what it already was.

Mr. Governator said that he was 5 feet the whole way.

CHAIRMAN FREDERICK OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if there was anyone who wanted to comment on application 2022-0590.

No one made a request to communicate.

CHAIRMAN FREDERICK CLOSED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if there was a picture of right in front of the bulkhead. He also asked if grass grew up to the bulkhead.

Mr. Matthews said yes.

A photo was put up of what Mr. Frederick wanted to see and Mr. Frederick said it did not look to be impacting the grass.

A discussion ensued.

Mr. Taylor asked Mr. Matthews if he could make it 5 feet total.

Mr. Matthews said he could make it 5 feet total. Meaning 5 feet from the inside of the bulkhead.

Mr. Frederick said from the drawing the walkway was 6 feet wide, and Mr. Matthews said only 5 feet of the 6 feet would hang over.

A discussion ensued on the width and overhang of the walkway.

Mr. Guvernator said it could be put in the motion that the whole 6 feet would come in ½ foot, and that the applicant still gets the intent of the 6 feet.

Mr. Taylor suggested 4 feet channel ward from the bulkhead and Mr. Matthews said that would be perfectly fine with him.

Mr. Frederick said that would make it 2 feet to the left and 4 feet to the right.

Mr. Matthews said that he would get drawings corrected and send to staff.

Mr. Frederick asked how many pilings there would be and Mr. Guvernator said it would be 11.

Mr. Frederick said he was asking to figure out the amount of impacts.

Mr. Taylor said 8 feet and asked Mr. Matthews if he was okay with that. Mr. Matthews said yes.

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted to issue an extension for 1 year, for William Peel VMRC# 2022-0590, proposed installation of a 52 in wide by 100 feet wide non-commercial open pile private pier including a 10 feet by 20 feet T-Head & proposed boardwalk with the following conditions:

- 1. Revised seaward walkway overhang of 4 feet from the face of the existing bulkhead*
- 2. Pay \$144.00 into the mitigation fund for 8 square feet of impacts to vegetated wetlands*

The property is located on Chincoteague, VA 23336, tax map#(s) 30A3-A-45 and 30A3-A-46.

E. David Stack VMRC# 2022-0592

Proposed replacement of the failing 122 feet wooden bulkhead with a new vinyl bulkhead

Mr. Guvernator gave a summary of the project.

Mr. Aaron Matthews appeared before the Wetlands Board on behalf of the applicant, and had already been sworn in by Chairman Frederick.

Mr. Matthews that the proper number had already been calculated for what needed to be paid for the impacts to vegetated and non-vegetated wetlands.

Mr. Matthews asked Mr. Guvernator if he was okay with the placement of the bulkhead.

Mr. Matthews said the bulkhead was failing because the correct tiebacks were not put in.

Mr. Taylor asked about the survey line and Mr. Matthews showed Mr. Taylor where it was on the drawing and where it would tie in.

Mr. Taylor wanted to know if any of this work would be on the Jones' property, (adjacent property owner), and Mr. Matthews said no.

CHAIRMAN FREDERICK OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if there was anyone who wanted to comment on application 2022-0592.

No one made a request to communicate.

CHAIRMAN FREDERICK CLOSED THE FLOOR TO PUBLIC COMMENT

Mr. Guvernator said the high tide line runs along the whole bulkhead and showed where the low tide line runs on the drawing. He also showed the Board which part of the project was in their jurisdiction. The tides rises and falls on the bulkhead.

Mr. Getek said there was not enough room for a living shoreline there, and Mr. Matthews added that a living shoreline would not last through two norwesters.

On a motion made by Mr. Taylor and seconded by Mr. Byrd, the Wetlands Board voted to issue an extension for 1 year, for David Stack VMRC# 2022-0592, proposed replacement of the failing 122 feet wooden bulkhead with a new vinyl bulkhead with the following conditions:

- 1. Pay \$2,736.00 into the mitigation fund for 120 square feet of impacts to vegetated wetlands and 32 square feet of non-vegetated wetlands impacts*

The property is located on Chincoteague, VA 23336, tax map#(s) 30A3-A-47 and 30A3-A-49.

6. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, May 26, 2022 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac, VA.

7. ADJOURNMENT

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

The meeting was adjourned at 11:48 a.m.

Earl Frederick, Chairman

Chontese Ridley, Environmental Permit Specialist