

ACCOMACK COUNTY WETLANDS MINUTES OF MARCH 23, 2023

At a meeting of the Accomack County Wetlands Board held on the 23RD day of MARCH 2023 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. T. Lee Byrd, Chairman
Mr. George Ward, Vice Chairman
Mr. Gene Wayne Taylor
Mr. Timothy Getek
Mr. George H. Badger

Others Present:

Ms. Chontese Ridley, Environmental Programs Permit Specialist
Mrs. Beth Nunnally, Environmental Planner II
Ms. Claire Gorman, Virginia Marine Resources Commission (VMRC)
Mr. Leander Pambid, Deputy County Administrator for Building, Planning & Economic Development

DETERMINATION OF A QUORUM

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

2. ADOPTION OF AGENDA

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

3. MINUTES

A. February 23, 2023

Mr. Getek said there was a modification/addition that needed to be made. Prior to the vote for the Blue Marina permit, (VMRC# 2022-2293), he and Mr. Badger had a discussion that needed to be included.

Mr. Badger said the discussion was on why they were voting the way they did. He also added that he read, into the record, under §28.2-1303-B1 [in the Virginia State Code]:

- *The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment.*

Mr. Getek proposed the board wait on approving the February minutes until the modification had been made.

4. NEW BUSINESS

A. Judd Brook Properties LLC - VMRC# 2022- 2580

Creation of a freshwater impoundments for timber preservation, sustainability, sea level rise and protection, and habitat creation.

Ms. Nunnally, Environmental Programs, stood before the Wetlands Board and was sworn in by Chairman Byrd.

Ms. Nunnally stated the applicant's agent had contacted Accomack County staff and requested the hearing be continued for 30-60 days. The agent said they wanted to have time to prepare responses to letters they had received from VMRC, VIMS and VDWR, (Virginia Department of Wildlife Resources).

Ms. Nunnally said staff recommend that the application be continued for 60 days due to having a back log of other projects.

Mr. Byrd said, if he was correct, that would be the May 25, 2023 meeting due to April being full. That was correct.

Mr. Byrd asked if anyone wanted to approach and speak about the continuance.

Mr. Jim Cahoon, (Bay Environmental), appeared before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Byrd.

Mr. Cahoon said in addition to comments continually being uploaded, (some as late as the 17th [of March]), VMRC had appointed a new representative, (Claire Gorman), and she requested to do a site visit.

Mr. Cahoon said they would like to afford her that opportunity before having the hearing.

Mr. Byrd asked to confirm, due to the issues on both sides, that Mr. Cahoon was asking for a 30-60 day continuance. Therefore, coming back before the Board on May 25, 2023. Mr. Cahoon confirmed that was correct.

Mr. Byrd stated that because the application was now being continued it would not be open to the floor for comment.

Mr. Getek said this was an announced public hearing and that the people present would be open to speak. He added that the thought they should have the public hearing.

Ms. Ridley interjected to say when there was a continuance, they have never opened up the floor to public comment. The Board had not done that for anyone before.

Mr. Badger said what could happen with the continuance is that their project could change, and that might rectify some of the issues that would be brought up in a public hearing now. It would mean that the speakers would have to repeat themselves and or change their approaches to the project.

Mr. Badger thought it was best to wait and continue it to the May 25, 2023 meeting.

Mr. Getek said if the application would need to be re-advertised.

Ms. Ridley said no and gave an explanation on why not. She also stated that the application would only need to be re-advertised if the project's description changed.

Mr. Taylor said he thought if there was a public hearing that the application had to be advertised, and wanted to know what the County Attorney to confirm.

Ms. Ridley said staff could ask Ms. Proctor, but their normal process was that it did not have to be re-advised due to a continuance. It was not something they had done in the past for any other applications.

Mr. Taylor then said he wanted VMRC's opinion on the matter.

Ms. Claire Gorman, (VMRC), appeared before the Wetlands Board and was sworn in by Chairman Byrd.

Mr. Badger asked Ms. Gorman if she thought the application needed to be re-advertised even though it was a continuance.

Ms. Gorman said she was under the impression that it would be re-advertised, but she would not stray from the Board's standard.

Mr. Cahoon said they did not have an issue paying for the application to be re-advertised if needed.

On a motion made by Mr. Badger and seconded by Mr. Ward, the Wetlands Board voted on a continuance until the May 25, 2023 meeting for Judd Brook Properties LLC - VMRC# 2022- 2580, for the proposed Creation of a freshwater impoundments for timber preservation, sustainability, sea level rise and protection, and habitat creation. The property is located along the Machipongo River, tax map#(s) 112-A-21 & 112-A-22A

6. OTHER BUSINESS

A. Willows Branch LLC – VMRC# 2021-0404 Extension Request

Re-dressing, augmenting and adding fill to an area of the property experiencing extreme wave energies.

Ms. Chontese Ridley, (Environmental Programs), appeared before the Wetlands Board and was sworn in by Chairman Byrd.

Ms. Ridley stated that the project was under construction, but due to the contractor having some expectant delays. Due to those delays the project will not be completed before the current permit was due to expire.

Ms. Ridley said the applicant requested a one year extension.

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted extend the permit for 1 year from the initial permit date for Willows Branch LLC – VMRC# 2021-0404, for the proposed re-dressing, augmenting and adding fill to an area of the property experiencing extreme wave energies. The property is located on Chincoteague Island, VA 23336 tax map#(s) 31-8-21.

B. Old Dominion Electric Cooperative – VMRC# 2022-0409 Extension Request

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.

Ms. Ridley said construction for this project had been delayed until January 2023. While the project was currently under construction, it was not anticipated to be complete by the expiration date of April 28, 2023.

Ms. Ridley said the applicant was requesting a one year extension.

On a motion made by Mr. Taylor and seconded by Mr. Ward, the Wetlands Board voted extend the permit for 1 year from the initial permit date for Old Dominion Electric Cooperative – VMRC# 2022-0409, for the 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. The property is located on Wallops Island, VA 23337 tax map#(s) 28-A-75.

C. Dan Davis - Captain Dan's Island Tours– VMRC# 2022- 0789 Extension Request

Removal of approx. 776 cubic yards of material from the mooring basin and also the replacement of approx. 94 linear feet of heavy duty bulkhead.

Ms. Ridley stated that the applicant’s agent, Ms. Ellen Grimes, was requesting 1 ½ year extension.

Ms. Ridley said she did not know if the Board wanted to do a one year or two year extension, because she had never known them to do a ½ year extension before.

Ms. Ridley said the US Army Corps of Engineers did not issue the permit for the requested work until 2/21/2023.

Mr. Taylor said they would be allowed to do a two year extension, however, that was not what was requested.

Mr. Taylor said he would make the motion for a one year extension and if that was not enough time they could request another extension.

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted extend the permit for 1 year from the initial permit date C.Dan Davis - Captain Dan's Island Tours – VMRC# 2022-0789, for the removal of approx. 776 cubic yards of material from the mooring basin and also the replacement of approx. 94 linear feet of heavy duty bulkhead. The property is located Chincoteague Island, VA 23336 tax map#(s) 30A5-A-405, 406.

D. Board Discussion

Chairman Byrd opened the floor for board members to speak

Mr. Getek expressed that he thought public comment should have been opened. He added that he felt bad that people came to speak and were not able to.

Mr. Byrd agreed, but said they were only doing what they had been told, and asked staff to follow up with the County Attorney on the matter.

7. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, April 27, 2023 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac, VA.

8. ADJOURNMENT

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

The meeting was adjourned at 10:22 a.m.

T. Lee Byrd, Chairman

Chontese Ridley, Environmental Permit Specialist