

1 **ACCOMACK COUNTY WETLANDS BOARD MINUTES OF MARCH 28, 2024**

2 At a meeting of the Accomack County Wetlands Board held on the 28TH day of MARCH 2024 in the
3 Accomack County Administration Building Board Chambers, Room #104, in Accomac, Virginia.

4 **1. CALL TO ORDER**

5 **MEMBERS PRESENT AND ABSENT**

6 Wetland Board Members Present
7 Mr. T. Lee Byrd, Chairman
8 Mr. George Ward, Vice Chairman
9 Mr. Gene Wayne Taylor
10 Mr. George H. Badger

11
12 **Others Present:**

13 Ms. Chontese Ridley, Planner I
14 Ms. Beth Nunnally, Environmental Planner II
15 Ms. Claire Gorman, Virginia Marine Resources Commission (VMRC)
16 Mr. Leander Pambid, Deputy County Administrator for Building, Planning &
17 Economic Development

18
19 **DETERMINATION OF A QUORUM**

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

21
22 **2. ADOPTION OF AGENDA**

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

25 **3. MINUTES**

26 **A. February 22, 2024**

27
28 **On a motion made by Mr. Badger and seconded by Mr. Ward, the Wetlands**
29 **Board voted to approve the February 22, 2024 minutes.**

30
31 *The board is aware and complies as closely as possible to the objectives of the Virginia Marine*
32 *Resources Commission wetlands policy of no net loss. All approved permits are granted for a*
33 *two-year period from the date of the hearing unless specifically noted. All persons speaking*
34 *before the board will be sworn in.*

40 **4. NEW BUSINESS**

41 **A. Bob Kershaw- VMRC# 2023- 2757**

42 Proposed construction of a new 30 feet long vinyl bulkhead adjacent to the Chincoteague
43 Channel to allow for the backfilling of a privately owned boat basin, located on Chincoteague
44 Island, VA 23336, tax map#(s) 30A3-A-59.

45
46 **Mr. T. Lee Byrd**

47 They are located across the street from 3530 Main Street on Chincoteague. I think it's
48 the same 911, and it requires a vinyl bulkhead to allow for backfill.

49
50 Representing the Kershaw's is Mr. Charles "Chuck" Ward, Starboard Environmental.

51
52 Would you please be sworn in Ms. Nunnally and give us a synopsis?

53
54 Do you swear or affirm that you'll tell the truth, the whole truth and nothing but the
55 truth in all matters before this board?

56
57 **Ms. Beth Nunnally**

58 Yes, sir. I do.

59
60 This first project is only project for today, Bob Kershaw, JPA 2023-2757. The
61 applicant's agent is Mr. Chuck Ward.

62
63 The location is Chincoteague, 30A3-A-59 tax map number, and like Mr. Byrd said it's
64 across the street from 3530 on Main Street.

65
66 The waterway is Chincoteague Bay, and this project is for the backfill of a private boat
67 basin.

68
69 The wetlands impact for the 12' by 14' section is 168 square feet of non-vegetated
70 wetlands. Since there's nowhere on site to mitigate, that will have to be mitigated by
71 paying the in-lieu fee for future wetlands. That costs will come to \$3,024.00.

72
73 They will do this through the construction of a 50-foot bulkhead connecting two
74 adjoining properties on both sides. It will be backfilled.

75
76 The portion that is in the Board's jurisdiction is 12 feet by 14 feet, a boat ramp that will
77 be filled in.

78
79 This is a private-use manmade boat basin.

80
81 **Mr. T. Lee Byrd**

82 That's 160 feet of non-vegetated at \$18.00 is \$3,024. Is that correct?

83
84 **Ms. Beth Nunnally**

85 That's correct.

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Mr. T. Lee Byrd

We have with us today representing the Kershaw's, Mr. Ward. Please be sworn in.

Do you affirm or swear that you will tell the truth and nothing but the truth in all matters before this board?

Mr. Charles (Chuck) Ward

I do.

First of all, I'd like to express my sincere gratitude for your staff member, Beth Nunnally, for catching some typos and some errors. I can't thank her enough for calling me yesterday to correct some issues.

In the original application, I was trying to make it clear that we were going to construct some new bulkhead and replace the existing bulkhead. It was in the different iterations of the different versions of the application that got kind of lost in the in the details.

There's going to be a new bulkhead across.

There's a little portion of bulkhead that sticks across that boat basin and now it's so failed it's not really a bulkhead. It doesn't have any function so I wasn't calling it a bulkhead.

Thank you, Beth. I appreciate all of her guidance on getting that straightened out.

I also wanted to let you know that we are going through the process of receiving an individual permit from the Army Corps for this project, because there is no nationwide or general permit that they could issue for this.

Public advertisement is going out and the Army Corps are going through that process of issuing an individual permit.

We are doing it concurrently hoping that everything would flow smoothly and we wouldn't have to go back and start the process.

Yesterday, March 27, I received, from Virginia DEQ, a notification that a Virginia Water Protection permit coverage is not required for this project. I'm halfway through the requirements from the Army Corps to get this approved by them.

The definition of wetlands is met there by the existing boat ramp area. It ebbs and flows out in front of the boat ramp. That's about a 12' by 14' area that we've got there to do mitigation on.

On the plan you can see the structure that no longer functions as a bulkhead out on the channel side of the boat basin. We are going to run a bulkhead across, in the same footprint, and then backfill that manmade privately owned boat basin.

133 **Mr. T. Lee Byrd**
134 All right, we'll get back to questions in just a moment. Is there anything else you wish
135 to tell us?

136
137 **Mr. Charles (Chuck) Ward**
138 I don't think so.

139
140 **Mr. T. Lee Byrd**
141 All right. Thank you very much.

142
143 **CHAIRMAN BYRD OPENED THE FLOOR TO PUBLIC COMMENT**
144 Mr. Byrd asked if there was anyone who wished to comment on application 2023-
145 2757.

146 No one wished to comment.

147 **CHAIRMAN BYRD CLOSED THE FLOOR TO PUBLIC COMMENT**

148
149 **Mr. George (Hank) Badger**
150 Mr. Ward, the existing boat ramp, is that a concrete boat ramp underneath of it?

151
152 **Mr. Charles (Chuck) Ward**
153 It's heavily packed. It's definitely impervious. I don't know if it's macadam, asphalt. or
154 rubble. You can't drive through it.

155
156 **Mr. Gene Wayne Taylor**
157 I think the main reason they want to do this, I talked with Mr. Bob, (applicant/property
158 owner), is because this is where it starts to flood. This where the water comes in.

159
160 It's like a lot of boat ramps on Chincoteague. Memorial Park, water comes in there, and
161 behind the American Legion.

162
163 They are trying to stop the water from coming in and flooding which happens all time.

164
165 **Mr. George (Hank) Badger**
166 The portion that's in the Board's jurisdiction is strictly the old dilapidated boat ramp.
167 The remaining portion of the slip, or boat basin, is not in our jurisdiction.

168
169 I don't know if VMRC is taking jurisdiction or not. I suspect that they would take
170 jurisdiction over at least the bulkhead itself across the front, because that would be
171 probably be in their jurisdiction.

172
173 You said the Corps is working on a permit an individual permit? Do you know what
174 their mitigation compensation price is going to be on that?

175
176
177
178

179 **Mr. Charles (Chuck) Ward**
180 Since we're under 10,000 square feet, we are under the threshold for doing mitigation.
181 We are exempt.
182

183 **Mr. T. Lee Byrd**
184 Ms. Gorman will you approach please and be sworn in?
185

186 Do you affirm or swear that you will tell the truth, the whole truth in all matters before
187 this board?
188

189 **Ms. Claire Gorman**
190 I do.
191

192 **Mr. T. Lee Byrd**
193 Thank you, ma'am. What can you tell us about your jurisdiction and this particular job?
194

195 **Ms. Claire Gorman**
196 We actually issued a no permit necessary for this one, we did not exert jurisdiction. The
197 historic aerials for this site show that this was actually an upland. It was dug out and
198 it's all manmade from what we could tell.
199

200 We issued a no permit necessary, even with them as channelward, but it was it was
201 difficult. It was a more challenging site to discern.
202

203 It is outside of our jurisdiction. The slip itself is the Corps jurisdiction, and the wetlands
204 are the Boards.
205

206 **Mr. T. Lee Byrd**
207 Does your client agree with the mitigation of a little over? \$3,000?
208

209 **Mr. Charles (Chuck) Ward**
210 Yes, he is aware. No issue.
211

212 **Mr. T. Lee Byrd**
213 It ebbs still on the ramp, or it goes out beyond the ramp when it ebbs out?
214

215 **Mr. Charles (Chuck) Ward**
216 On rare events.
217

218 **Mr. Gene Wayne Taylor**
219 It goes both ways, but again, on normal tide, I would say that.
220

221 **Mr. T. Lee Byrd**
222 That it ebbs out on the old ramp under normal conditions. That's all we can speak to.
223

224 We read that the neighbors are okay with this. No one is here to talk about it so I assume
225 that's all good to go.

226
227 **Mr. George (Hank) Badger**

228 I do have one question for Chuck. If they get the Corps permission and the Wetlands
229 Boards permit to fill, is this a buildable lot at that point?

230
231 **Mr. Charles (Chuck) Ward**

232 I believe it is currently. It's an existing lot of record, and on Chincoteague that means
233 it's a buildable lot.

234
235 It has residential development value currently, and this this wouldn't create any
236 difference. There are no setbacks from the water if you own waterfront property.

237
238 Health department issues aside, regarding septic disposal, it's an existing residential lot
239 on Chincoteague which means it has development potential.

240
241 **Mr. Gene Wayne Taylor**

242 That would not be an issue.

243
244 **Ms. Beth Nunnally**

245 I am not sure what the distance is.

246
247 **Mr. Charles (Chuck) Ward**

248 It's probably it's probably 70 or 80 feet from the upland edge of that boat basin to Main
249 Street.

250
251 **Mr. Gene Wayne Taylor**

252 If I bought that piece of property and built my house there, I would want to do the same
253 thing for the same reason. I wouldn't want where I parked my car to be underwater a
254 lot.

255
256 **Mr. George (Hank) Badger**

257 One of the main reasons here is because of the flooding that comes up through the
258 basin.

259
260 Our portion of this project is a small portion compared to the Army Corps jurisdiction
261 on this. It's not any vegetated wetlands involved in this, it's just non-vegetated.

262
263 **Mr. T. Lee Byrd**

264 Any other questions from the board?

265
266 I like to close the comments from the Board, and if no one else has anything I'd like to
267 open it to a motion.

268

269 **On a motion made by Mr. Taylor and seconded by Mr. Ward, the Wetlands Board**
270 **voted to issue a permit, valid for (2) years, for Bob Kershaw- VMRC# 2023- 2757**
271 **for the proposed construction of a new 30 feet long vinyl bulkhead adjacent to the**
272 **Chincoteague Channel to allow for the backfilling of a privately owned boat basin**
273 **with the following conditions:**

274 *1. Pay \$3,024.00 into mitigation fund for 168 square feet of impacts to non-*
275 *vegetated wetlands.*

276 **The property is located on Chincoteague Island, VA 23336, tax map#(s) 30A3-A-**
277 **59.**

278
279 *All parties are advised that the foregoing determination grants no authority to*
280 *encroach on the property rights of others.*

281
282 **5. OTHER BUSINESS**

283 **A. Old Dominion Electric Cooperative – VMRC# 2022-0409 Extension Request**

284 Proposed under-grounding of approximately 1,470 feet of transmission line in new ROW in
285 front of Runway#35 and remove approximately 0.5 miles of existing overhead transmission
286 line located on Wallops Island, VA 23337 tax map#(s) 28-A-75.

287
288 **Mr. T. Lee Byrd**

289 Ms. Ridley, we need to swear you in.

290
291 Do you agree or swear that you will tell the truth, the whole truth and nothing but the
292 truth in all matters before this board?

293
294 **Ms. Chontese Ridley**

295 I do.

296
297 **Mr. T. Lee Byrd**

298 Would you bring us up to date on what they need?

299
300 **Ms. Chontese Ridley**

301 This is JPA 2022-0409 for Old Dominion.

302
303 They've been back here before for an extension, March 2023. At that time, they
304 needed an extension due to a material shortage.

305
306 Now, the majority of the project is done, they are at 80%. Mr. Davis, who is the agent
307 for the project, said that was due to weather conditions. (They have to be out in the
308 marsh to finish the last 20%).

309
310 Mr. Davis said that they had plans to finish that in August, which is past their April
311 28, 2024 permit deadline. They need about two weeks to get this done and they're
312 requesting a 1-year extension.

313
314 It's not going to take them the whole year, but that's what they're requesting.

315

316 Again, they are at 80% now with 20% more to do. They are going to do that in
317 August and it shouldn't take longer than two weeks.

318
319 **Mr. T. Lee Byrd**

320 They're going to do it in two weeks, but we have changed most of the extensions to
321 two-years if they choose.

322
323 **Mr. Gene Wayne Taylor**

324 Do you want to make a two-year extension?

325
326 **Mr. T. Lee Byrd**

327 I want to hear what you all have to say.

328
329 **Mr. Gene Wayne Taylor**

330 They have been working on it.

331
332 **Mr. T. Lee Byrd**

333 With this weather anything can happen. We've done more 2-years lately than we have
334 1-year, but if anyone has an issue, I'd like to hear it, please.

335
336 **Mr. Gene Wayne Taylor**

337 Give them one-year, because what they asked for.

338
339 **Mr. George (Hank) Badger**

340 Was this request timely?

341
342 **Chontese Ridley**

343 Yes.

344
345 **Mr. T. Lee Byrd**

346 They'll get it done in a year. If something ridiculous happens, like this rain we've been
347 having, they'll come back to us.

348
349 Any other comments from the board?

350
351 This is a one-year extension for JPA 2022-0409, Old Dominion Electric Cooperative
352 Extension request.

353
354 If there are no questions, may I ask for a motion for the extension?

355
356 **On a motion made by Mr. Taylor and seconded by Mr. Badger, the Wetlands**
357 **Board voted to issue an extension, valid for (1) year, for Old Dominion Electric**
358 **Cooperative – VMRC# 2022-0409, for the proposed under-grounding of**
359 **approximately 1,470 feet of transmission line in new ROW in front of Runway#35**
360 **and remove approximately 0.5 miles of existing overhead transmission line located**
361 **on Wallops Island, VA 23337 tax map#(s) 28-A-75.59.**

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B. JPA & Site Requirement Checklist

Mr. T. Lee Byrd

We have a checklist that we've all asked for. Ms. Nunnally has put together a Joint Permit Application Completeness Review Checklist.

Ms. Nunnally did you just want to go through it now?

Ms. Beth Nunnally

I wanted to show you first. I didn't come up with this checklist, Mr. Chris Guvernator did. It's located on our website on the Wetlands Board section.

I wanted to ask everybody if they had anything to add to it, or if there were any suggestions on how we can change it or make it better.

Mr. T. Lee Byrd

I don't see anything on here that alarms me and I think it's a good checklist to go back. Has everybody had a chance to look it over?

Gentleman, is there something you'd like to see on here that's not, or is there something that bothers you that is on here?

Mr. George (Hank) Badger

I've looked it over it seems appropriate to me.

Mr. T. Lee Byrd

I think it's appropriate. I don't think this is a vote or anything just discussing it.

Ms. Beth Nunnally

I think it was Mr. Getek that originally suggested it, and I didn't know if he was aware that this was already online. Now that we know exactly where it is we can we point people towards it.

Mr. T. Lee Byrd

Possibly send Mr. Getek an email of this so he'll have it for next month. If he has any comments, he's coming back to you with them.

Gentlemen, any final comments?

There were no other comments.

6. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, April 25, 2024 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac, VA.

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7. ADJOURNMENT

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

The meeting was adjourned at 10:25 a.m.

T. Lee Byrd, Chairman

Chontese Ridley, County Planner I