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Mr. T. Lee Byrd

First, I'd like to ask Ms. Nunnally to approach be sworn in and give us the synopsis, please.

Do you firmly swear that you will tell the truth, the whole truth, and nothing but the truth in all matters before this Board?

Ms. Beth Nunnally

I do.

Mr. T. Lee Byrd

Thank you, ma'am. Would you bring us up to date?

Ms. Beth Nunnally

This is JPA 2024-0511. The owner is Eric Olson. The location is at 16165 Vaux Hall Lane in Melfa. It is on Warehouse Branch, a waterway which is part of Pungoteague Creek. The structure that we're speaking of is a private use 120-foot riprap revetment. It will be constructed of class 2 stone, the filter cloth, and will require that the bank is graded to remove downed trees and brush. The current use of the property is private, although they do have tourist homes. The wetlands impacts are now at 252 square feet of vegetated wetlands at \$18 per square foot.

The reason it was continued to this month is that we were trying to get the one and a half times flagged out because previously it was not. Just to remind everybody, this is where it's located out on the tip there at Warehouse Creek. This is the cross-section of the property of the revetment on the side of the bank there.

She re-flagged the one and a half times so that it would be more obvious to everybody, here it is. See, it's hard to see in this light, but that pink flag down there and there's a blue one down there. I don't know if you can see this picture.

Okay, this is the toe. This is the one and a half times. This is the toe and this is the one and a half times. This is the end of the revetment here. It is obvious that this is eroding bank in these photos and this is the top of the revetment planned.

Kelley, do you have anything to add?

Mr. T. Lee Byrd

Just give us a moment, please. We're going to ask you to come forward and see if you have anything to add or take away from it. Thank you, ma'am.

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If you don't mind, ma'am, because I forget things. May I ask Ms. Gorman to approach be sworn in so we can yell at you when we need to?

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

Ms. Claire Gorman

Yes, Sir.

Mr. T. Lee Byrd

Thank you, ma'am.

Representing the applicant is Ms. Kelley Parks of Parks Planning and Consulting. Ma'am, may I ask you to approach, be sworn in, and just go over and basically what she did? If you don't mind, please?

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

Ms. Kelley Parks

Yes, sir.

Mr. T. Lee Byrd

Thank you, ma'am. Would you sort of carry on what she was talking about and see if there's anything additional?

Ms. Kelley Parks

Sure, yes, she covered it pretty well. Originally, we did have it, more water-ward so we pulled it back, so that's the difference in the square footage of wetlands impact. We did toy with the idea of pulling it out of the Wetland Board's jurisdiction, but it just was not the appropriate alignment for this project. It would have caused sort of an unnatural dip in that shoreline so it needs to go in the Wetlands Board's jurisdiction. We didn't want to design it so that it would fail.

I went back out and completely re-staked it. Wetlands Board flags were there. I think it was a little confusing because they were all the same color so I got some multicolor and I got a Sharpie and I labeled them so there was no confusion now.

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Mr. T. Lee Byrd

Alright, back to that picture. Does everyone understand that? If you look, I think we have the very back sheet of her application, if you would, please run us through it again. You changed some flags that made sense because it was confusing.

Ms. Kelley Parks

Yes, correct. The bank is highly undercut now, I think even more than it was before, so we did establish the 1.5 times as a blue. Then the more seaward, pink, is the toe – the outward limits of the toe.

We originally had that about two feet seaward of where it is now but we were able to pull that back and we're able to avoid a lot of the marsh grass impacts, actual impacts to the grass. That was kind of part of pulling that back to try to minimize the impacts to any of the wetlands area there. I think it will be just as successful by pulling it back. That's kind of a synopsis. If you have any questions, I'd be happy to answer.

Mr. T. Lee Byrd

One statement before questions, please. We received some emails or mailings from you to or from Ms. Gorman. They have virtually nothing to do with us. I don't know why we received them. They were basically from Ms. Parks to Ms. Gorman and her answers so they truly have little to do with us.

Ms. Kelley Parks

Were they the requests?

Mr. T. Lee Byrd

That is correct?

Ms. Kelley Parks

Yeah, I think, you know, the alignment. You know, you could read the alignment, the reasoning for the alignment that would play into it, but I think most of the things were VMRC related.

Mr. T. Lee Byrd

That is correct. If you don't mind taking a seat, we will probably be calling you again. Is there anyone else that wishes to speak about this particular project before we open it to the floor?

Sir, absolutely, come be sworn in. State your name for the record, please.

160 **Mr. Jeremy Ware**
161 My name is Jeremy Ware.

162
163 **Mr. T. Lee Byrd**
164 Your occupation?

165
166 **Mr. Jeremy Ware**
167 I am the general manager of Vaux Hall Farms.

168
169 **Mr. T. Lee Byrd**
170 If you don't mind, do you affirm or swear that you will tell the truth, the whole truth
171 and nothing but the truth in all matters before this Board?

172
173 **Mr. Jeremy Ware**
174 I do.

175
176 **Mr. T. Lee Byrd**
177 Carry on sir.

178
179 **Mr. Jeremy Ware**
180 Beth, could you cycle back through some of these pictures? Go to the beginning.
181 There's one in particular I want to get. This one right here. If you notice this one right
182 here, the fresh dirt that you're seeing there, that red clay, that actually fell from the
183 time that Kelley put the new flags in, so within the last month we did lose this tree off
184 that bank. It is actively eroding and it is continuing to be a problem.

185
186 **Mr. T. Lee Byrd**
187 Thank you for bringing that to our attention. Anyone that's ever lived on a Bayside
188 Creek knows about erosion and you have it more than most so I'm glad you brought
189 that up.

190
191 All right. Would anyone else in the gallery like to speak about this particular project?

192
193 **CHAIRMAN BYRD OPENED THE FLOOR TO PUBLIC COMMENT**
194 Mr. Byrd asked if there was anyone who wished to comment on VMRC# 2024-0511.

195
196 No one wished to comment.

197
198 **CHAIRMAN BYRD CLOSED THE FLOOR TO PUBLIC COMMENT**

199
200

201 **Mr. T. Lee Byrd**
202 Open to Board discussion.

203
204 **Mr. Getek**
205 I, unfortunately, didn't get a second chance to go out and visit. I just want to clarify in
206 terms of the one and a half mean range. How far up the embankment does it go? Is it
207 at the bottom or is it near the middle?

208
209 **Ms. Beth Nunnally**
210 It doesn't go up the embankment, it's at the bottom.

211
212 **Mr. T. Lee Byrd**
213 Anything else? Mr. Ward? Mr. Taylor?

214
215 **Mr. Gene Wayne Taylor**
216 The question I had, that 252 square foot required vegetation was vegetated and non-
217 vegetated right?

218
219 **Ms. Beth Nunnally**
220 There were both, but we decided it was hard to figure out which was which so we just
221 called it together. It was mixed together.

222
223 **Mr. Gene Wayne Taylor**
224 Right. That's all vegetated.

225
226 **Ms. Kelley Parks**
227 It's entirely out of the non-vegetated wetlands portion.

228
229 **Mr. Gene Wayne Taylor**
230 Right, but part of it is vegetative, and VMRC is okay?

231
232 **Mr. T. Lee Byrd**
233 Would you agree, ma'am?

234
235 **Ms. Claire Gorman**
236 Yes, Sir.

237
238 **Mr. T. Lee Byrd**
239 All right. Anything else? Any other questions, or comments?

240

241 All right, if so, may I open it up to the Board for a motion and a second.
242

243 **On a motion made by Mr. Ward and seconded by Mr. Taylor, the Wetlands Board**
244 **voted unanimously to issue a permit, valid for (2) years, for Vaux Hall, LLC-**
245 **VMRC# 2024-0511 for the construction of a new 120-foot riprap revetment**
246 **located at 16165 Vaux Hall Lane in Melfa, VA 23410, tax map # 100-A-31 with the**
247 **following conditions:**

- 248 *1. Pay \$4,536.00 into the mitigation fund for 252 square feet of impacts to*
249 *vegetated and non-vegetated wetlands.*
250

251 **5) NEW BUSINESS**

252 **A. Mr. Jeffery Zerby, JR - VMRC# 2024-0328**

253 Stabilization of an existing timber bulkhead with a revetment, located at 27096
254 Underhill Point, Cashville, VA, tax map#(s) 90A-2-7.
255

256 **Mr. T. Lee Byrd**

257 It's Mr. Jeffrey Zerby, Jr. Down at Under Hill point that's 27096 Under Hill point.
258 It is down in back of Cashville, Nebo. Stabilization of an existing timber bulkhead
259 with a revetment, Ms. Nunnally, you've been sworn in would you give us the
260 synopsis please?
261

262 **Ms. Beth Nunnally**

263 This project is JPA 2024-0382, Jeffrey Zerby is the owner, Brian McGee, from
264 McGee and Associates is the agent, it is located at 27096 Under Hill Point Road
265 in Onancock and it's on Pungoteague Creek. The structure currently is a failing
266 bulkhead and they want to replace with a riprap revetment.
267

268 There's SAV present on site close to shore. The fetch is pretty great there and
269 goes from 0.34 to over 2 miles. The home is less than 50 feet from the bulkhead.
270 The riprap that they'd like to use as a construction method is class three stone and
271 will cover the old bulkhead.
272

273 The old bulkhead will be cut off, and marine plywood would be installed at the
274 bottom two feet of the bulkhead to attach to a filter cloth. No clearing or grading
275 is anticipated and the work would be done from the uplands.
276

277 Through this process, we realize there will be 180 square feet of vegetated
278 wetlands that will be encroached upon. 150 feet non-vegetated wetlands that will
279 be impacted, but it will be a conversion because of the riprap.
280

281 This is the cross section of the plan. This is the actual bulkhead at low tide. You'll
282 see there at the end, that's the vegetative portion. The low tide hits the bulkhead.
283 The non-vegetative portion of the encroachment is behind the bulkhead this

284 pocket of holes. The revetment will be tied in with the neighbor here, their
285 revetment here. The impacts will be right here.

286
287 **Mr. T. Lee Byrd**

288 Impacts are?

289
290 **Ms. Beth Nunnally**

291 The impacts are 180 square feet of vegetative wetlands at an impact cost of
292 \$3,240.

293
294 **Mr. T. Lee Byrd**

295 Right. The Authorized Agent on this project is Mr. Brian McGee of McGee and
296 Associates. Would you approach if you don't mind, sir, too be sworn in?

297
298 Do you affirm or swear that you'll tell the truth, the whole truth and nothing but
299 the truth in all matters before this Board?

300
301 **Mr. Brian McGee**

302 I do

303
304 **Mr. T. Lee Byrd**

305 Please. bring us up to date on your end.

306
307 **Mr. Brian McGee**

308 I think Beth covered it really well. VMRC and I are working through a couple of
309 things with the mean low. Not on the permitting end but for the VMRC. For the
310 Wetlands Board I think that's already covered, unless you have got any questions.

311
312 **Mr. T. Lee Byrd**

313 No, sir. Just a comment that I've been down there and you're not as in bad a shape
314 as their first client, but it's terrible area and something needs to be done.

315
316 **CHAIRMAN BYRD OPENED THE FLOOR TO PUBLIC COMMENT**

317 Mr. Byrd asked if there was anyone who wished to comment on application
318 2024- 0328.

319 No one wished to comment.

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

321
322 **Mr. Getek**

323 Yes, I'm not quite sure how to direct this. Maybe Mr. McGee would know. In
324 regards to it, it looks like part of that bulkhead was repaired in the past. Do you
325 know anything about the history of this area?

326

Mr. Brian McGee

328 I do not. Like many of the previous permits, they're hard to find sometimes,
329 unless they're within the last 15 years.

330

Mr. Getek

332 My next question might be, you don't know how long that revetment next door
333 has been there either?

334

Mr. Brian McGee

336 That is that's relatively new, as well. Yeah, that's only another two three years.

337

Mr. T. Lee Byrd

339 Excuse me. That was redone. It was at least 20 years ago. I remember being down
340 there. It's been several repairs in Under Hill Point over the last 25 years and it's
341 getting worse.

342

343 Any other questions Gentleman? Any thoughts, comments?

344

Mr. Getek

346 I guess I should, as part of our purpose/standard is to ask why a living shoreline
347 was not considered, and I'd like to hear a reason for why that wasn't. Why are we
348 going with this versus not a living shoreline just for documentation purposes?

349

Mr. T. Lee Byrd

351 There are several people that can tell you that, Beth kind of already did.

352

Ms. Beth Nunnally

354 Because the fetch that they meet out away from the bulkhead close to the shore.
355 They're using the revetment instead of another bulkhead, so that's sort of like an
356 in-between solution.

357

Mr. Getek

359 I have to ask that for the Board to make sure.

360

Mr. T. Lee Byrd

361

362 Yes, sir. Good comment, but it will not work there and I'm sure anyone that's been
363 there would understand.

364
365 **On a motion made by Mr. Taylor and seconded by Mr. Ward, the Wetlands**
366 **Board voted to issue a permit, valid for (2) years, for Mr. Jeffery Zerby, JR -**
367 **VMRC# 2024-0328 for the Stabilization of an existing timber bulkhead with a**
368 **revetment with the following conditions:**

369 **1. Pay \$3,240.00 into mitigation fund for 180 square feet of impacts to non-**
370 **vegetated wetlands.**

371 **The property is located at 27096 Underhill Point, Cashville, VA, tax**
372 **map#(s) 90A-2-7**

373
374 *All parties are advised that the foregoing determination grants no authority to*
375 *encroach on the property rights of others.*
376

377 **B. Paul and Vicki Morris Real Estate Holding, VMRC# 2024-0596**
378 proposed dredging of the Wachapreague Marina, a reconfiguration of the existing
379 slippage and replacing a failing 140-foot bulkhead, 15 Atlantic Avenue in
380 Wachapreague VA, tax map#(s) 113A-6-A & 113A-6-B.

381
382
383 **Mr. T. Lee Byrd**
384 If we might continue new businesses. This is Paul and Vicki Morris Real Estate
385 Holdings at 15 Atlantic Avenue in Wachapreague, requesting their permit for the
386 proposed dredging of the Wachapreague Marina, a reconfiguration of the existing
387 slippage and replacing a failing 140-foot bulkhead. Would you please tell us if we
388 missed anything, Ms. Nunnally?

389
390 **Ms. Beth Nunnally**
391 That sounds good. Just to repeat, it's JPA 2024-0596. It's the Wachapreague Marina.
392 The owners are Paul and Vicki Morris Real Estate Holdings. The agent is Ellen
393 Grimes of CRM, LLC. The location is 15 Atlantic Avenue in Wachapreague. The
394 waterway is Finney Creek.

395
396 The improvements are: they're going to redo the whole Marina, reconfigure the
397 existing slippage, repair bulkheads, put in new bulkheads, fill in a concrete ramp, add
398 floating docks, add a 65-foot soldier pile breakwater and both basins will be
399 hydraulically dredged and the spoils sent to a spoil site there in Wachapreague.

400
401 The only portion of this project that is in the Wetlands Board's jurisdiction is the new
402 bulkhead replacement which will cause 910 square feet of non-vegetated wetland
403 impacts and that will be \$16,380.
404

405 This is hard to see, but this is the cross-section here of the bulkhead which will be
406 done two feet out. The bulkhead has been leaking fill and is there on the sea side of
407 the bulkhead. This is a portion of it that we can lose.

408
409 Over here is the concrete ramp, but this is looking in the other direction of the
410 bulkhead. As you can see, not all of this will be included in the non-veg because it is
411 not contiguous with mean low water. You can see in this photo that other portions
412 are. The boat ramp that's going to be filled in is not included because it's all concrete.

413
414 Do you have any questions?

415
416 **Mr. Getek**
417 Is the plan to put the new bulkhead in line with what's there already?

418
419 **Ms. Beth Nunnally**
420 It's two feet out.

421
422 **Mr. Getek**
423 Is it going to be channel-ward 2 feet?

424
425 **Ms. Beth Nunnally**
426 That's right.

427
428 **Mr. Gene Wayne Taylor**
429 Of course, this is a man-made channel.

430
431 **Ms. Beth Nunnally**
432 You're exactly right, it's just two feet out.

433
434 **Mr. Gene Wayne Taylor**
435 Two feet out into a man-made harbor.

436
437 **Ms. Beth Nunnally**
438 Yes, so this is the man-made portion and out there is Finney Creek.

439
440 **Mr. T. Lee Byrd**
441 Right, anything else?

442
443 Thank you, any questions for Ms. Nunnally?

444 Representing the applicant is Ms. Ellen Grimes. How about that? Haven't seen you in
445 a while ma'am.

446

447 Do you affirm or swear that you'll tell the truth, the whole truth, and nothing but the
448 truth in all matters before this Board?

449

450 **Ms. Ellen Grimes**

451 I do indeed.

452

453 Just let me start by saying Mr. Morris is here today and if you have any questions
454 directed directly to him you may certainly do so. If not, I can provide you with all the
455 information that you need.

456

457 Mr. Morris and Vicki Morris want to basically refurbish the Wachapreague Marina
458 and that includes the upland amenities and the water amenities. This will be for
459 transient kind of boat usage. He has or will be applying for what's called a BIG grant.

460

461 **Mr. T. Lee Byrd**

462 Boating Infrastructure Grant.

463

464 **Ms. Ellen Grimes**

465 Right. Boating Infrastructure Grant to replace both upland and water amenities. Also,
466 it helps that Wachapreague is getting sewer. I think that will that will be a great boon
467 to this project.

468

469 As far as the Wetlands Board 's jurisdiction and in the non-tidal wetlands area, the
470 basins are sub-tidal. There's no jurisdiction there for you, but there is some seepage
471 and leakage of backfill material as Beth showed you earlier coming from this area
472 here, flowing out under this lovely holey bulkhead and ending up on the other side.
473 There we have the leakage and it's pretty much all shell material unless there's
474 sediment and mud underneath it, but it basically has all come out from behind what
475 was put there by the previous property owners. That's all shell, I'm sure there's mud
476 and earth under there, but look at these gaping holes that spread the whole length of
477 the bulkhead, which is about 140 feet. That's really the only bulkhead section that
478 needs to be replaced.

479

480 We think on the other side, I recall, Mr. Fabricatore did, possibly put in vinyl, so
481 doesn't have holes in it. The boat ramp is here. We're proposing to fill that in as well.
482 There's a town boat ramp and it seems to be the thing to do in Wachapreague to fill in
483 your boat ramps because the town has such a really nice boat ramp.

484 Nobody uses the other boat ramps and when people don't use the other ramps, they
485 get in a state of disrepair, and people say why should I fix it, nobody uses it? Like
486 Beth said, it is concrete so there are no vegetated or non-vegetated wetlands to be had
487 there except for the mud on top. That's really about it.

488
489 Beth, are all my drawings in here? No? You just put Wetland's Board jurisdiction?
490 Okay. Do you have a copy of the drawings?

491
492 **Ms. Beth Nunnally**

493 Do you want to see the full application?

494
495 **Ms. Ellen Grimes**

496 No, I was just going to refer them to the drawings and refer them to page two of eight.
497 Page two of eight is an overview of what's going on. This was done by the engineer,
498 as an overlay, on an official topo that was done by a surveyor across the bay.

499
500 There used to be a platform there, a pretty large nice platform. A lot of that has been
501 taken away by attrition, storms, damage and disrepair. That will be rebuilt and there
502 will be three large 40-foot slips right there in that section, and then the section facing
503 north where it says "Basin A" that basin is shared by the restaurant. All this work will
504 happen to the south of the north wall of the boat ramp and those will be floating
505 access piers as well. The floaters will be accessed by aluminum ramps so it's a pretty
506 nice project. I can envision it done and think how much nicer it will be than the
507 original marina.

508
509 **Mr. T. Lee Byrd**

510 This happened with other people there, so yeah, I totally agree.

511
512 **Ms. Ellen Grimes**

513 All the other issues that have plagued the place since Henry left are repaired, fixed,
514 addressed, and ready to move on to better things. I would request that this project be
515 looked at much like Tom Gallivan's project just north of the Island House restaurant,
516 in that both basins of this have been dredged previously, like Tom's property, and
517 Tom's was not assessed a county fee of \$18 a square foot for non-vegetated wetlands.
518 I had thought that there was going to be a little checklist of what would make them
519 qualify for non-assessment and what would make them qualify for being assessed. Is
520 there one? There is one! okay. How did it fall? I hadn't seen it.

521
522
523

524 **Mr. T. Lee Byrd**
525 I'd like to go through a couple of things first if you don't mind. Does anyone have any
526 questions, except for this In-Lieu-Of for Ms. Grimes?

527
528 **Mr. Getek**
529 I have a request if you don't mind. I don't recall to what degree it was shellfish that
530 was next to that area of our jurisdiction but of course the moving or replacing, if you
531 can help make sure that they are re-located so as many of those shellfish can survive?

532
533 **Mr. T. Lee Byrd**
534 Tom agreed to that, by the way, you are absolutely correct, so we would like that put
535 in the motion if you don't mind.

536
537 **Ms. Ellen Grimes**
538 Okay. That'll be fine. I don't recall either, because everything was kind of sub-
539 aqueous at that point, at the toe of your jurisdiction, at low water, and you can't see it.
540 It doesn't ebb out that often, so I have not seen it to see that.

541
542 **Mr. T. Lee Byrd**
543 That was the deal - if it had ebbed out, he would move it.

544
545 **Ms. Ellen Grimes**
546 Okay. That's again the deal.

547
548 **Mr. T. Lee Byrd**
549 All right, any other questions with the exception of this for Ms. Grimes?

550
551 **Mr. Getek**
552 Just in regards to low tide? The basin still has water in it essentially, correct?

553
554 **Ms. Ellen Grimes**
555 Yes. It was it was surveyed at low water. Mean low water was determined by the
556 surveyor and one basin had 2.5 at Low Water the other hand 2.6 ...down to five.

557
558 **Mr. T. Lee Byrd**
559 All right, we will certainly be calling you back up in just a moment. Would anyone
560 else like to speak regarding this project?

561
562 Sir, if you would agree to come forward to be sworn in.
563 Sir, would state your name for the record?

564 **Mr. Paul Morris**

565 Paul Morris.

566

567 **Mr. T. Lee Byrd**

568 All right, Sir, do you affirm or swear that you'll tell the truth, the whole truth, and
569 nothing but the truth in all matters before this Board?

570

571 **Mr. Paul Morris**

572 I do.

573

574 **Mr. T. Lee Byrd**

575 Thank you. If you don't mind, we may be getting ahead of ourselves, but you've
576 applied for a Boating Infrastructure Grant, have you already applied and already were
577 there for last fall? Or is it for this fall's appropriations?

578

579 **Mr. Paul Morris**

580 No, I was kind of waiting on the sewer so we wouldn't have to worry about lag time.
581 I'm still debating whether to put it in this July's appropriation period, or the next
582 July's because we're probably going to conjoin with the existing Marina and use their
583 spoils pond and they're not going to do that till winter of 2025 or 2026.

584

585 **Mr. T. Lee Byrd**

586 Okay, so this is to come. Is this totally based on your ability to get funds from
587 Boating Infrastructure?

588

589 **Mr. Paul Morris**

590 No. It's not.

591

592 **Mr. T. Lee Byrd**

593 Good. I guess you know how that operates? I'm sure you do.

594

595 **Mr. Paul Morris**

596 I have the whole handbook on it and they've been on site. Mr. Smith has been there
597 and they were great.

598

599 **Mr. T. Lee Byrd**

600 They're good to deal with. I have plenty of scars from the Town of Onancock, if you
601 have any questions. They'll come back. They're good to work with. They have X
602 number of dollars, and you get your share.

603

604 **Mr. Paul Morris**
605 Yeah, I went all through it. It's an amazing funding apparatus.

606
607 **Mr. T. Lee Byrd**
608 They do a great job. They have a fixed amount of dollars and there will be 35 people
609 trying to get it all.

610
611 **Mr. Paul Morris**
612 I think it's about \$18 million annually nationwide. Virginia also has a funding
613 apparatus, but it's nowhere near that volume.

614
615 **Mr. T. Lee Byrd**
616 I just wanted to make sure you were aware of that. Any questions for this gentleman?

617
618 **Mr. Paul Morris**
619 Just want to thank you guys for serving on this Board. I served on one in Utah for 10
620 years and I know it takes your time. I just want to thank you for your service.

621
622 **Mr. T. Lee Byrd**
623 Thank you very much. We love it.

624
625 **CHAIRMAN BYRD OPENED THE FLOOR TO PUBLIC COMMENT**
626 Mr. Byrd asked if there was anyone who wished to comment on application 2024-
627 0596

628 No one wished to comment.

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

630
631 **Mr. T. Lee Byrd**
632 We're going to open it to the Board.
633 If you'll allow me first to tell you what you all had been through with me. We have an
634 in-lieu fee waiver in front of you. It's a nice checkoff list that we did not have when
635 we did your neighbor. The bottom line is, we need to determine what good it's going
636 to do. Locals, transients, this gentleman, the town of Wachapreague, and if you'll
637 allow me, if you'll think back when Mr. Gallivan was here, it just changed the
638 complexion. Mr. Ward, it's in your backyard so it's your deal. Would you like to
639 comment on that? What's happened, and what is to happen, and the benefit of this?

640
641 **Mr. George Ward**
642 Well, over the past 10 years, or maybe longer, everything's gone downhill around the
643 marina. This would be a good shot in the arm to bring it back to where it used to be

644 years ago. I just think it is a good idea, a lot of money being spent, a lot of
645 improvements.

646

647 **Mr. T. Lee Byrd**

648 If anybody has been down there and has a history of Wachapreague, you're absolutely
649 dead on. It was a wonderful sight - manmade, as you said. Getting that done will
650 change the complexion of the area. Transient boaters, just people tying up to go to the
651 restaurant occasionally. That's our job, I think, to make sure that we do it right and by
652 the book. We're going to push that every area in this county has the ability to do that
653 if it is a rebuild, job, etc.

654

655 Most of our time is spent on homeowners. Some want to do things that they don't
656 necessarily need, but the bulk of it - few live on the bayside, you know that they're
657 losing land every day, particularly Northwest.

658

659 If you don't mind, Ms. Gorman, what we're getting ready to go through here is the in-
660 lieu-of fee waiver checklist. It possibly has little to do with you, but can you offer any
661 gems of wisdom at all?

662

663 **Ms. Claire Gorman**

664 No, it is your purview. So long as it's discussed then I have no comment on that.

665

666 **Mr. Getek**

667 Do other Wetlands Board's typically have something like this that they go through?
668 What's your knowledge?

669

670 **Ms. Claire Gorman**

671 No, this is the only Board that I have that has this kind of checklist, but it seems very
672 useful, and it seems like a very fair way to assess the fees.

673

674 **Mr. T. Lee Byrd**

675 All right, and this is within our jurisdiction is that correct?

676 Does everyone agree with that? All right. I'm going to allow it if you don't mind.

677

678 Mr. Ward, this is in your backyard. We've discussed and beaten it to death.

679 Thank you, ma'am. You made it extremely clear what we did before with Tom.

680 I'd like you to continue and it'll be your motion in-lieu-of fee.

681

682

683

684 **Ms. Beth Nunnally**

685 The reason we developed this checklist is to be consistent. We are allowed to waive a
686 non-vegetated wetland fee because it is not required by VMRC. We're allowed to
687 waive this if we see fit. What we developed is this form **for** it if, in the situation
688 where:

- 689 • Manmade basin or canal
- 690 • Historically Dredged
- 691 • Commercial
- 692 • Within the confines of a bulkhead
- 693 • Economically significant for a region
- 694 • Restoring to prior condition/ not creating something new
- 695 • Wetland value lesser/ economic value greater
- 696 • Not in opposition to the County Comprehensive Plan

697
698 You were talking about how this area has gone down and it now is in poor shape.
699 People aren't able to use it because of what's happening, it's very expensive to fix it.
700 That's why it hadn't been fixed up to now.

701
702 It's not creating something new; it's just rehabilitating an old structure.
703 The wetland values in this area are a lesser value, because they do not support a lot of
704 life. [It's just mud really. I mean, there's some wildlife there, but it's not like a natural
705 wildlife area.

706
707 The economic value is significant for this area, to be repaired. It does not oppose the
708 Comprehensive Plan.

709
710 **Those were the criteria for it.**

- 711
712 The criteria against it would be if it was:
- 713 • natural wetlands in a natural state,
 - 714 • never before been dredged,
 - 715 • a private or residential property,
 - 716 • contiguous to a larger wetland,
 - 717 • economically insignificant to the public welfare
 - 718 • creating something new,
 - 719 • high quality wetlands,
 - 720 • in opposition to the comprehensive plan

721
722 I think we can all agree that almost all of them are checked. The ones against it are
723 almost all not checked. That's all I wanted to repeat into the record for us.

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Mr. T. Lee Byrd

I agree. Are there questions for Ms. Nunnally regarding that “for/against?”

Mr. Getek

Right. Well, I agree with everything you indicated, I just wanted to be clear that when you say Comprehensive Plan, is this the county plan?

Ms. Beth Nunnally

Yes, the County's Comprehensive Plan.

Mr. Getek

I just wanted to make sure that's clarified. Okay. Very good. Just to add on to this, a little bit, it is historically dredged, and if I remember correctly, I saw the spoil site where the dirt and dredge nearby is already taken care of, in regards to where the dredge spoils are going.

The only thing I would comment and unfortunately, Mr. Badger isn't here, he has the VMRC book, and he quotes a particular paragraph that indicates that if it's economically advantaged to do this, then it's permissible within our jurisdiction, our decision process to do this. Unfortunately, I don't know what that page number is.

Ms. Beth Nunnally

It's the “anticipated public-private benefit of the proposed activity exceeds the anticipated public and private detriment.”

Mr. T. Lee Byrd

Hank would agree. Mr. Badger would agree. He'd read that into the record. We have spoken about it and I think he'd be in total agreement. Is there anyone, particularly Mr. Ward, that would like to speak of this “for and against” if there are any checkmarks that you see that we don't from going by it every day?

Mr. George Ward

Not really. The “for” should be checked against it. There's nothing really there against it. My wife and I were riding around Sunday, and she's not always real observant, neither am I, but when we came down to the marina she said, “Where are the boats? They're not there.” We can't use it. I would guess at one time there were 20 boats or better.

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Mr. T. Lee Byrd

Very valid point. We fight it sometimes on Bayside. In this particular case, I think that only someone that has never been there wouldn't agree with all of the "for and against".

Mr. Gene Wayne Taylor

There's just so much upgrade there, and I'm glad somebody else is upgrading the private.

Mr. George Ward

There's a lot of money that is going to have to be spent and it's private money. Hopefully, grant money. Right now, the grant, you never know, but I don't think we want to do anything to jeopardize the probability of them getting a grant because I'm not quite sure the project would be completed without it.

Mr. T. Lee Byrd

We've already made that reasonably clear that with or without BIG... We hope you get every nickel of it.

Mr. Getek

I do have one more quick question here. My quick calculation, you're going to check every box. It looks like what you said here in regards to 20% For one and two, that we can effectively give 100%.

Ms. Beth Nunnally

According to our checkboxes, which are 20% for each

Mr. Getek

For one and two?

Ms. Beth Nunnally

Yes, there's a hierarchy to it. The first ones are the most important and they're 20% then the rest of them are 10%. All the boxes are checked if you wanted to use this as a tool.

Mr. T. Lee Byrd

Are there any boxes not checked for and against? I don't see.

804 **Mr. Gene Wayne Taylor**
805 The only reason it's in that one and a half times is because of the failing bulkhead.
806 It's not like something that's swooped in, the bulkhead itself is what caused it.

807
808 **Ms. Beth Nunnally**
809 It's a man-made failure of a man-made basin.

810
811 **Mr. Gene Wayne Taylor**
812 That's exactly.

813
814 **Mr. Getek**
815 I guess the only other question I would ask, as far as people's memory or what you
816 might know, at no time was there any vegetated wetlands in his basin, and as far as
817 you know?

818
819 **Mr. T. Lee Byrd**
820 I think not but let's just allow Ms. Grimes to approach.

821
822 **Ms. Ellen Grimes**
823 I can speak to that. I've known that Marina for two decades, and I've never seen a
824 blade of grass in it.

825
826 **Mr. T. Lee Byrd**
827 All right, If I might just comment before asking for a motion. The motion needs to
828 include the in-lieu-of fee. The mitigation was 910 square feet, which is \$16,380. Are
829 there any last questions before we vote on this? All right. May I ask for a motion?

830
831 **On a motion made by Mr. Ward and seconded by Mr. Getek, the Wetlands Board**
832 **voted to accept the application and issue a permit, valid for two (2) years, for Paul**
833 **and Vicki Morris Real Estate Holding, VMRC# 2024-0596 for the proposed**
834 **dredging of the Wachapreague Marina, a reconfiguration of the existing slippage**
835 **and replacing a failing 140-foot bulkhead and that the in-lieu of fee of \$16, 380**
836 **would be waived based on the case review. The property is located at 15 Atlantic**
837 **Avenue in Wachapreague VA, tax map#(s) 113A-6-A & 113A-6-B.**

838
839 *All parties are advised that the foregoing determination grants no authority to*
840 *encroach on the property rights of others.*

841
842 **5. OTHER BUSINESS**

843 **A. Mr. Dan Davis – VMRC# 2022-0789 Extension Request**
844 Extension for dredging and bulkheading replacements located on Chincoteague
845 Island, VA 23336.

846 **Mr. T. Lee Byrd**
847 Do you agree or swear that you will tell the truth, the whole truth, and nothing but the
848 truth in all matters before this board?

849
850 **Ms. Chontese Ridley**
851 I do.

852
853 **Mr. T. Lee Byrd**
854 Thank you, Ms. Ridley. Carry on.

855
856 **Chontese Ridley**
857 All right. On April 15. Mr. Dan Davis of Captain Dan's Island Tours sent the email,
858 including a formal request, to ask for a second one-year extension. Before, his plan
859 was to get this work done during his off-season. His on-season is from April 1st
860 through November 30th.

861
862 His plan was to do it between December of 2023 to March 2024, but due to his
863 schedule and contractor availability, he was not able to get that work done and now
864 he's going into another working season. He's not going to make his deadline for his
865 extension to get the work done so he's asking for another extension of one year to get
866 the work done.

867
868 **Mr. T. Lee Byrd**
869 Is everybody clear on that?

870
871 **Mr. George Ward**
872 Was it requested in April?

873
874 **Chontese Ridley**
875 Yes.

876
877 **Mr. T. Lee Byrd**
878 April 15th, she said. All right. Thank you. Any other questions for Ms. Ridley?
879 Thank you, ma'am.

880
881 Ms. Grimes. You've been sworn in. You're a representative for Mr. Davis, you bring
882 us up to date if there's anything else.

883
884 **Ms. Ellen Grimes**
885 No. Ms. Ridley pretty much covered it. He's had a hard time with contractors. I think
886 that his contractor versus his schedule clash. If you can't get a contractor when they

887 are available, the next day they're off to something else. He's had a hard time doing
888 that.

889
890 **Mr. T. Lee Byrd**
891 Certainly, I understand it. Also, it's getting ready to be his season, which is his living.
892 Wayne can certainly bring us up to date. For everyone here, that's the Board and Ms.
893 Nunnally. This is one extension already, the second for one year. If he doesn't get the
894 work done, I think we agreed that after two, it would have to be requested for a new
895 JPA and start as if it was brand new. Do we agree with that? We discussed that
896 someone wanted a third one and we gave them... yes ma'am?

897
898 **Ms. Beth Nunnally**
899 Did he mention how much or how long he wanted that extension to go? One year?

900
901 **Mr. T. Lee Byrd**
902 Does anybody have a comment for Ms. Grimes? If he doesn't get it done then we start
903 brand new.

904
905 **Mr. Gene Wayne Taylor**
906 Mr. Chair because now we do two years?

907
908 **Mr. T. Lee Byrd**
909 Yes, we do two years for permits.

910
911 **Mr. Gene Wayne Taylor**
912 His was a one-year permit. Maybe for the ones that were in the year previous, with all
913 of our backup, if we had two years then we could do this, it would be four years
914 instead of three. If we approved something today, they could have two years.

915
916 **Mr. T. Lee Byrd**
917 Did we make the two-year retroactive?

918
919 **Mr. Gene Wayne Taylor**
920 We did not.

921
922 **Mr. T. Lee Byrd**
923 What are you suggesting, that we go another year at least with this?

924
925
926

927 **Mr. Gene Wayne Taylor**
928 Yes, these ones that were one year previously, because they had to be that way, with
929 one year previous of us going to two years, would be able to get one more additional.
930

931 **Mr. George Ward**
932 What I was thinking, if he's not going to be able to start working on it till spring, he's
933 lost half the time due to his personal work schedule.
934

935 **Ms. Ellen Grimes**
936 It wouldn't be winter. That would be a winter dredge schedule for him, and for Dean
937 too.
938

939 **Mr. Gene Wayne Taylor**
940 Dean's a good contractor, he's up front. Is this question something we should even
941 battle with, because he's only asking for one year? We probably should do a permit
942 for what he's requesting.
943

944 **Mr. T. Lee Byrd**
945 Do we have any idea how long the project will take once it started?
946

947 **Ms. Ellen Grimes**
948 I would say six to eight weeks because it's mechanical.
949

950 **Mr. Gene Wayne Taylor**
951 Okay, we'll cross that bridge. There's no need to battle if that's something that's not...
952

953 **Mr. T. Lee Byrd**
954 Okay. Thank you. Any other questions, or comments?
955 Ms. Grimes? Alright, thank you, ma'am.
956

957 Is there anyone here that would like to comment on this particular project? On the
958 floor? Yes, ma'am. Miss Nunnally?
959

960 **Ms. Beth Nunnally**
961 I just wanted to say, we did look at the project again and it appears to be very much
962 like it was before.
963

964 **Mr. T. Lee Byrd**
965 It is unchanged. He couldn't get to it and now's the time he makes his living so we
966 certainly understand why he can't do it now.

967 **CHAIRMAN BYRD OPENED THE FLOOR TO PUBLIC COMMENT**

968 Mr. Byrd asked if there was anyone who wished to comment on VMRC# 2022-0789.
969 No one wished to comment.

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

971
972 **Mr. T. Lee Byrd**

973 Was there anything else needs to be said? Gene Wayne, your turn – it's in your
974 backyard, you're a Chincoteaguer.

975
976 **Mr. Gene Wayne Taylor**

977 Yes, they said he's got Dean, and probably just right after the season he'll get in there
978 and get it done.

979
980 **Mr. T. Lee Byrd**

981 Are we saying he has contractors now?

982
983 **Mr. Gene Wayne Taylor**

984 He's saying Dean Fisher is going to be his contractor.

985
986 **Ms. Ellen Grimes**

987 That's the proposal.

988
989 **Mr. T. Lee Byrd**

990 I think we understand why you say it like that, tongue-in-cheek. That is not our job.
991 Any other question? Any comments?

992
993 **Mr. Gene Wayne Taylor**

994 No, we have a request.

995
996 **Mr. T. Lee Byrd**

997 All right. Let's open it up to a motion please.

998
999 **On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands**
1000 **Board voted to issue an extension, valid for (2) years, for Dan Davis, JPA 2022-**
1001 **0789, an extension for dredging and bulkheading replacements. The property is**
1002 **located on Chincoteague Island, VA 23336.**

1003
1004 *All parties are advised that the foregoing determination grants no authority to*
1005 *encroach on the property rights of others.*

1009 **Mr. Getek**
1010 Mr. Chair, there is a new change in the agenda and I have some other business I'd like to
1011 comment on. I just want to bring to the Board's attention that currently there's a lawsuit at
1012 Captain's Cove that potentially involves Seaview Street and I'm not sure at this time, but
1013 I've been asked to testify and have been subpoenaed.

1014
1015 I just want to bring this to the Board's attention and I also discussed it with the county
1016 attorney, who gave me instructions in regards to any testimony, that if I'm speaking as a
1017 Wetlands Board member, which is all public record, speak as such, but if I speak as a
1018 private citizen, I make note of that. The trial is on June 11, 2024. If there is pertinent
1019 information that the Wetlands Board needs to know, I will report that in the June
1020 meeting.

1021
1022 **Mr. T. Lee Byrd**
1023 Any questions from the Board regarding that?

1024
1025 **Mr. George Ward**
1026 Well, did they subpoena you as part of the Board or as an individual living there?

1027
1028 **Mr. Getek**
1029 That is a good question. It's always gets to be mixed a little bit because they obviously
1030 want to hear about my experience in what I've seen on the Wetlands Board, but I think
1031 principally, the testimony as a private citizen. They may involve some experiences I have
1032 here in terms of photos.

1033
1034 **Mr. T. Lee Byrd**
1035 All right. Thank you. I appreciate you bringing that up. Any other questions for Mr.
1036 Getek along those lines?

1037
1038 *There were no other comments.*

1039
1040 **6. NEXT MEETING**
1041 The next Wetlands Board meeting is scheduled for Thursday, June 27, 2024, at 10:00
1042 a.m. in the Accomack County Board Chambers, Room 104, in Accomac, VA.

1043
1044
1045 **7. ADJOURNMENT**
1046 **On a motion made by Mr. Taylor and seconded by Mr. Ward, the Wetlands Board**
1047 **voted to adjourn the meeting.**
1048 The meeting was adjourned at 11:05 a.m.

1050

1051

1052

T. Lee Byrd, Chairman

1053

1054

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1057

Julie Crockett Floyd, Environmental Permit Specialist