

**NORTHAMPTON COUNTY
WETLANDS BOARD**
Minutes
February 20, 2013

This was the regular meeting of the Northampton County Wetlands Board held on Wednesday, February 20, 2013 in the Board Chambers located at 16404 Courthouse Road in Eastville, Virginia for the purpose of conducting regular business.

Those members present were Chair Marshall Cox, Vice-Chair Bowdoin Lusk, Nancy Wells Drury, John Chubb, Jr., Will Brown and Mark Gates. Absent from the meeting was Dot Field.

Also attending were Robert Cole with the U.S. Army Corp of Engineers; Hank Badger with the Va. Marine Resources Commission; Melissa Kellam, Agent to the Board and Zoning Administrator; Katrina Hickman, Zoning Inspector and Enforcement Agent to the Board; and Kay Downing, Board Secretary.

The meeting was called to order at 11:00 a.m., and a quorum established. All those wishing to speak at today's meeting were sworn in by the Chair.

Public Hearing

The first scheduled public hearing was called to order.

- A. VMRC 2013-0019: Hehl Properties, LLC has applied to repair two torn geo-tubes including the installation of Class III rip rap (prefab concrete slabs) along with vegetative stabilization measures. The property is known as "Holly Bluff" Island, described as Tax Map 123, double circle A, parcel 2; and zoned "C" Conservation District.

Ms. Kellam informed the Board that the decision tree was formulated by staff and noted that Ms. Hickman is now the site evaluator. She explained how the new staff review process will work. She added that this decision tree pertains to an existing revetment plus geo-tubes to flank that revetment.

Mr. Bob Harnet, agent for the applicant, submitted photos to the Board showing how the geo-tubes were torn. The applicant proposes to repair 2 geo-tubes using the manufacturer's recommended process and material. The tubes will be filled with soil from the site. When asked, he noted that once repaired Class III weight stone would be used to stabilize the area. Transported from the mainland, this pre-fabricated, irregularly shaped stone would be 6 to 8 inches thick and stackable.

The Chair called for public comments. None were received and the public portion of the hearing was closed.

Mr. Badger explained that VMRC will require cross-sectional drawings of the project before scheduling its public hearing on this notice. He noted that the drawings had been requested earlier, but were never received.

Mrs. Downing clarified that the cross-sectional drawings were not needed for today's hearing and staff wanted to move the process forward.

Action:

Motion was made by Mr. Chubb to approve the application for repairs with the condition that the geo-tubes will be covered by the pre-fabricated concrete stones. Second was made by Mr. Lusk and the motion carried unanimously.

The second hearing was called to order.

- B. VMRC 2013-0067: Robert & Linda Paschall have applied to install a 200 linear feet rip rap revetment with two (2) 15 linear feet return walls. The revetment will be placed behind and landward of all vegetated wetlands. The property is located at 2202 Clearview Road on the Chesapeake Bay and described as Tax Map 2A, double circle 2, parcel 11.

Ms. Kellam stated that no correspondence on this matter has been received from adjacent property owners. She noted that the decision tree pointed to two different options when two different types of erosion scenarios are considered. Undercut shoreline areas, as is the case here, would have higher erosion rates.

Ms. Ellen Grimes, agent for the applicants, stated that due to the impacts of Hurricane Sandy the applicants had filed this application to help stabilize 600 feet of shoreline. The project would utilize Class II & III stone for the toe placed over a wide filter cloth base. Buffer plantings would be installed and one Hackberry tree would be removed because of its exposed roots.

The Chair called for public comments, there being none the hearing was closed.

Mr. Badger offered no comments.

Various questions were posed by the Board. Ms. Grimes noted that neither adjacent property owner wished to participate in the project. She expressed her opinion that if it appears that the neighbors may be impacted then it may be because they are not being pro-active in addressing shoreline issues. The project would require two return walls and the shoreline would be armored. It was her opinion that grading and planting to implement a living shoreline may not be feasible given this shoreline's high exposure to storm impacts. She explained that the project drawing depicts vinyl return walls with rock placed at the bottom around the edges.

The applicants hope to construct this project once and for all to stabilize and prevent further erosion.

There was discussion that this project may be beyond the jurisdiction of the Board. However, based on Mr. Badger's opinion along with the application and drawings a consensus of the Board was that a small portion of the project did fall within the Board's jurisdiction by at least one foot.

Ms. Kellam stated that upland projects require sediment and erosion control measures where undercutting has occurred. She noted that in the past similar projects were intentionally pushed beyond the Board's jurisdiction and many have since failed. Now, due to high erosion rate, those projects fall within the Board's jurisdiction and will need to come before the Board to be repaired.

Action:

Noting that there will be no detrimental impacts to the public, motion was made by Mr. Lusk to approve the project as submitted. Second was made by Mr. Brown and the motion carried by a majority vote of 4 to 2 with Ms. Drury and Mr. Cox opposed as it was their opinion that the project was outside the jurisdiction of the Board.

The last hearing was called to order.

- C. VMRC 2013-0073: The Peaceful Lakes Property Owners Association has applied to install filter cloth and Class III armor stone over an existing return wall and to extend a revetment by 15 feet. The property is described as "common area", Tax Map 12D1, double circle 2, parcel A1 that is zoned A/RB Agricultural/Rural Business.

Ms. Kellam stated that no correspondence on this matter has been received from adjoining property owners. She then reviewed the Decision Tree with the Board. Ms. Drury noted that one property owner did respond about the proposed access over the property to reach the project site.

Mr. George Dille, contractor, stated that due to damage from Hurricane Sandy the applicants wish to extend their return wall by 30 feet. Mr. Gates noted that the public notice stated that the return wall would be 15 feet in length. Mr. Dille noted that 16 feet of stone is proposed to be installed over the existing return wall and that the south end of the existing project is washing out.

Ms. Grimes stated that water is sheeting downward and then swirling creating a wound in the beach. Ms. Hickman added that a small riprap wall on the upland portion is proposed to slow down sheet flow.

There being no other public comments the Chair closed the public portion of the hearing.

Mr. Dilley answered several questions noting that 30 to 40 truckloads of materials have been lost because of storm impacts and it is hoped that the project will save the bulkhead and protect the beach from the backside where the swirl is occurring. He added that the natural dynamics occurring on the property created its own slope and there is a continuance washing out during storm events. To help alleviate some of the impact, one check dam would be installed as approved by the property owners' association.

Ms. Drury noted that this is a common area used by multiple people in the subdivision and should be maintained for that purpose.

Action:

Motion was made by Mr. Gates to approve the application as submitted. Second was made by Mr. Lusk and the motion carried unanimously.

New business

The Board agreed to move to New Business at this time. Ms. Kellam reported that there may be 3 new applications to be heard in April.

Statements from the public: none.

Agent to the Board Chair Report

Ms. Kellam informed the Board that staff has re-evaluated how applications are reviewed. She stated that staff reports have usually been presented even though not required. Mr. Chubb noted that staff's approach has been fine but that the decision tree process often leads to approaches that are not always appropriate. When that occurs, additional staff comments would be beneficial in his opinion. Ms. Drury suggested that staff reports be submitted only when deemed necessary.

Ms. Kellam noted that Ms. Hickman would be the "eyes and ears" as the field staff person.

Mr. Cole asked what happens in cases if a decision tree is in conflict with others issues such as the endangered tiger beetle situation. Mr. Badger noted that all agencies receive copies of applications to promote a thorough review at the local, state and federal levels.

At this time, Mr. Wayne Galbraith was allowed to address the Board. He stated that at the last meeting the Board approved a permit for him, but that he still has one major concern. He then handed the Chair additional information and voiced his concern about the need for bank stabilization. He asked that 50 feet of riprap be allowed along a certain portion of his property. The riprap would have integrated openings/gaps as recommended by the engineer to allow

water flow.

Ms. Kellam stated that Mr. Galbraith is asking for a compromise to get his shoreline protected and that his email request was distributed to the Board this morning. He would provide revised drawings if the Board was open to his suggestion. Mr. Galbraith added that the compromise would be within the parameters of what was last advertised in his wetlands public notice. However, Ms. Kellam stated that staff and the Board could not verify that without the revised drawings.

The Chair stated that the Board had no comment. Ms. Kellam reiterated that Mr. Galbraith was simply seeking direction from the Board on this matter. Again, the Chair stated, "no comment" and the meeting continued.

Enforcement Agent Report

Ms. Hickman was pleased to report there were no new violations.

Consideration of Minutes

The minutes of December 19, 2012 and January 16, 2013 were unanimously approved upon motion by Mr. Gates and second by Mr. Chubb.

Old Business

Board attendance was discussed and the Chair reminded those present that good attendance is essential since having no quorum or poor attendance produces a negative image on both the Board and county.

As directed by the Chair, Ms. Kellam read her attendance memo for the record. The Chair noted that said memo will be part of the official 2012 attendance record as well.

Memorandum

To: NHCO Wetlands Board Members

From: Melissa S. Burgard Kellam, NHCO Wetlands Board Agent

Date: February 20, 2013

Re: Attendance

As directed by Marshall Cox, Chair, I am providing every Board Member with a brief summary of attendance protocol and a copy of the NHCO Wetlands Board attendance record for 2012. The attendance record is provided to Katie Nunez, County Administrator, on a bi-annual basis. At the January NHCO Wetlands Board meeting, board attendance was discussed and the Chair

emphasized, as a position appointed by the NHCO Board of Supervisors, it is important that every member set a personal goal of attending every meeting. If you cannot attend a meeting, please call or e-mail Kay Downing, Secretary, as soon as possible and prior to the day of the meeting. Her contact information is (757) 678-0443 extension 543 and kdowning@co.northampton.va.us. This notification to her is vital, enabling her to report to the Chair that he will or will not be able to establish a quorum for the meeting. If you have changes or additions to your contact information, she should be provided with this updated information. If you find that you are not able to attend the meetings on a regular basis because of your work schedule or extenuating circumstances, please contact Marshall Cox, Chair. The Chair is always available to discuss ideas that may help improve a member's attendance record.

Adjournment

There being no other business Mr. Lusk motioned to adjourn at 12:00 noon.

Chair

Secretary