

**NORTHAMPTON COUNTY**  
**WETLANDS BOARD**  
Minutes  
January 16, 2013

This was the regular meeting of the Northampton County Wetlands Board held on Wednesday, January 16, 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. and Mark Gates. Absent from the meeting were Dot Field and Will and Brown

Also attending were 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 10:01 a.m., and a quorum established. All those wishing to speak at today's meeting were sworn in by the Chair.

**Public Hearing**

The scheduled public hearing was called to order.

Since the Board had questions about the process of this hearing, Ms. Kellam explained that Mr. Galbraith had contacted her to request a revision to his original permit prior to the expiration date. During that time he was getting his drawing and permit together when his permit expired before a hearing was scheduled.

The Chair asked if the revised application had been advertised. Ms. Kellam replied yes.

Mr. Galbraith stated that his permit did not expire until February 2012. Mrs. Downing stated that the file shows that Wetlands Permit VMRC 2011-1310 issued by the Board expired December 1, 2012 and that the Wetlands Board was never informed of Mr. Galbraith's request made to Ms. Kellam about revising the original permit.

The Chair established that Mr. Badger has verified the process related to this revised application hearing.

- A. VMRC 2011-1310:** Wayne Galbraith has applied to revise a permit to construct a rip rap revetment up to 6 feet wide with varying slope due to shoreline contours and will utilize fill where necessary. The property is located at 11381 Waterford Lane with frontage on Hungars Creek and is described as being Tax Map 39, double circle A, parcel 2 containing 5.64 acres.

It is noted for the record that all Board members present and Ms. Kellam conducted a field inspection of the property prior to the meeting this day.

The original 2011 Decision Tree had been given to the Board along with the original 2011 application and revisions submitted by the applicant. Ms. Kellam noted that the Decision Tree ended at 5(b) to recommend installing a rock sill.

When asked by the Chair, Ms. Kellam read into the record Item 1 of Wetlands Permit 2011-1310 as follows, *"The expiration date of this permit shall be December 1, 2012. This expiration date is the date by which the project must be completed. The Permittee shall notify the Board through Katrina Hickman, Wetlands Board Enforcement Agent, at 757-678-0440, extension 546, when the project has been completed. The Board in its discretion may extend the expiration date. Any such application for extension of time shall be in writing prior to the expiration date herein and shall specify the reasons for such extension and the expected date of completion of the project."*

Ms. Kellam stated that no objections have been received from adjoining property owners.

A letter from Shoreline Engineer, Michael L. Vanlandingham, was presented to the Board as part of the record on behalf of the applicant and appears as part of the official minutes.

Mr. Galbraith stated his concern over rising sea level and noted that his family has owned the property for over 50 years. He has seen what has happened to the marshland and how it is disappearing. It occurred to him that there must be a good history of studies of wetlands and his research revealed that the U. S. Army Corps of Engineers (USACOE) has done some of the best ones. He referred to one particular study by Paul Knudsen and expressed his opinion that wind is not being considered a serious impact factor. Mr. Galbraith stated that he could see white caps off his property when wind comes from the west and that all the sills in the world cannot prevent the flooding that is happening. Most of the Corps studies were done in Virginia where new marshes were trying to be created. A major reason for the failure of the vegetative approach is weather. He stated that he did not mow the grass for a distance of twenty feet from the bank. With the hot summer weather the grass died except in some shaded areas. Trees were trimmed back as recommended. He noted that he had planted, watered and fertilized but there was not enough time for the complex root structure to be developed to hold the backfill in place. The other point of his research was that the sandier the soil the less the probability of success even for marsh area. These reports reveal that fully grown plants should be used which are simply not available here. He added that it was very difficult to find plugs and seed for salt meadow hay and other such vegetation. He referred to a photo he noticed on the counter of the Planning & Zoning Dept. that shows sturdy vegetation along with a revetment to stabilize the shoreline bank. He stated that he was not against creating new habitat, but certain locations may not be appropriate for such projects.

The Chair informed Mr. Galbraith that each application is considered on its own merits and location and asked Mr. Galbraith to conclude his comments within two more minutes due to time constraints.

Mr. Galbraith continued and noted that there is a question about the slope and his biggest concern is a storm system like that of Hurricane Hazel. It is inevitable that more storms are coming especially with sea level rising. He has asked for a permit to install a riprap revetment to slow the erosion along his bank. It was his opinion that the revetment will probably become a breakwater before the end of the century.

Mr. Chubb stated that when Mr. Galbraith came before in 2011 a recommendation had been submitted by Mr. Vanlandingham recommending a sill which was approved by the Board. He noted that Mr. Galbraith is of the opinion that the Board only wants a vegetative approach. However, a sill was approved but that approach was never tested because the sill was never installed. Mr. Galbraith stated that he has no intentions of installing the sill because, due to his research, it was now his opinion that a sill would be ineffective due to the flooding. Mr. Galbraith acknowledged that he had not thought the project through originally and noted that Mr. Vanlandingham did not recommend a sill.

Mr. Chubb stated his understanding of sea level rise since he owns property on the bay and noted that one can never protect from such an event because the storm impacts will top any structure due to high tide and storm surge conditions. When asked, Mr. Chubb acknowledged that his own property is in a flood plain as well and that type of factor cannot be engineered away, but the Board can try to address normal types of exposure.

Mr. Galbraith stated that there is no legal requirement for a sill. It was his opinion that a sill would not work nor prevent the flooding from a Hurricane Sandy. He reiterated his points about the difficulty in establishing vegetation despite all his efforts and that an unstable bank needs a riprap revetment to stabilize it.

Mr. Chubb read from the first Van Landingham letter of 2011 as follows, "To protect the shoreline and to enhance the existing fringe marsh, you may consider the construction of a riprap sill." However, in his 2013 letter Mr. Vanlandingham does refer to a revetment. Mr. Chubb added that the Board never implied that vegetation alone would solve Mr. Galbraith's shoreline problem. Mr. Galbraith reiterated that even with a sill it would not have prevented the flooding.

Mr. Lusk asked when the project was completed. Mr. Galbraith stated that he never finished the project and was still working on it when the hurricane struck. Mr. Lusk noted that this was an unsettled and unfinished project at the time of the storm. Mr. Galbraith stated that he had installed an erosion blanket and vegetation.

Mr. Lusk stated that his own 6-foot high bulkhead was breached during Hurricane Sandy and approximately 3 to 4 feet of heavily vegetated yard area was lost. During Hurricane Hazel portions of his bank were lost making his point that no structure can prevent damage from such storm events.

Mr. Galbraith stated that he wanted to spend a minimal amount of money on this project since he was retired and due to his age.

Mr. Gates stated his opinion that the Decision Tree did take into account "fetch" which includes a wind component.

There being no other comments, the hearing was closed.

Mr. Gates stated that the Board had observed some remnants of "light duty" materials such as the tie-downs used to anchor the filter cloth and coir logs only 4 inches in diameter. He inferred that these materials may have proven inadequate given the type of project and exposure conditions. He noted that a good seeding effort had been made and also observed that some water is coming off the lot and there appears to be quite a bit of seepage coming out of the bank as well.

Mr. Lusk stated his opinion that this property actually suffered minimal damage from Hurricane Sandy given the fetch and exposure. He acknowledged that there is a good slope, but soil did not have a chance to firm up and vegetation was not able to establish due to timing. It was his opinion that the sill would not have helped with this storm and it was just bad luck and timing that the project did not work plus the project was never built to specifications. He suggested that the same approach will work under different circumstances because this approach has worked in other such cases. It was his opinion that the Board cannot base its decisions alone on circumstances solely created by infrequent hurricanes.

The application drawings were reviewed and discussed. Mr. Chubb asked about the length of the revetment as proposed in Mr. Galbraith's application since the drawings were vague and noted that the approved sill was 80 feet long. Ms. Kellam noted that one drawing does depict the distance from the shoreline to the property line as approximately 300 feet. Mr. Lusk stated that the drawing is a major departure from what was approved by the Board. Ms. Kellam added that she tried to get benchmarks but was unsuccessful. When asked, Mr. Badger stated that he did not see a clear drawing of what is being requested. Ms. Field added that the drawings do not meet usual Board standards.

Mr. Badger relayed verbal comments from the Virginia Institute of Marine Science (VIMS) that if this project was approached as a new application a marsh sill would be recommended first and if more protection was needed because of the fetch, wave action and flooding then a revetment may be necessary particularly where the trees were located. He added that no project would be perfect enough to prevent impacts from severe hurricanes. Mr. Badger added that VIMS also had concerns about water having no way to escape once a revetment is breached.

Action:

Motion was made by Mr. Lusk to approve a two year extension of the original County Wetlands Permit issued for VMRC 2011-1310 that included the sill which expired on December 1, 2012. Therefore, the new expiration date shall be December 1, 2014. Second was made by Mr. Gates and carried 4 to 1 with Mr. Cox opposed.

**Old Business:** none.

**New Business:** none.

**Statements from the Public:** none.

**Agent to the Board Chair Report**

Ms. Kellam, Agent to the Board Chair, reported on the status of the Guy Doughty project related to additional structures on his property. The two structures not shown on the project drawings were the groin and stairs. She has received new drawings depicting both and added that these structures do not require Wetlands Board approval. However, the property owner has applied to the USACOE and VMRC for approvals if warranted. She added that the second application from Mr. Doughty also has a set of steps incorporated into the project and a revised drawing will be submitted. All extraneous structures are out of the Board’s jurisdiction or may need other agency approvals.

The Board was informed that five applications are pending but none are deemed complete at this time.

**Enforcement Agent Report**

Ms. Hickman reported that a written notice to comply will be issued to John Durmick for the Shooting Point violation if the required processing fee is not received by next Tuesday. There was no other information or violation to report at this time.

**Consideration of Minutes**

While reviewing the minutes of the December 19, 2012 meeting Mr. Gates asked for clarification of the first paragraph on page 2; therefore, no action was taken.

Prior to adjourning Board attendance was discussed and the Secretary was asked to provide the Board’s attendance record for review. The Chair stated that he would work with Ms. Kellam to address this concern.

**Adjournment**

There being no other business the meeting was adjourned at 10:58 a.m.

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Chair

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Secretary

REPLY TO:  
Tappahannock Regional Office  
P. O. Box 1425  
Tappahannock, VA 22560  
Telephone: (804) 443.3803  
FAX: (804) 443-4534

January 16, 2013

Mr. Wayne Galbraith  
17208 Mountain Road  
Montpelier, VA 23192

RE: SEAS# TI3018

Dear Mr. Galbraith:

On November 28, 2012, I met with you at your property on Hungars Creek in Northampton County. The site visit was in response to your request for advisory assistance concerning a shoreline erosion problem.

The publication entitled Shoreline Situation Report: reports the historical erosion rate for your area averages less than 1 foot per year. The erosion on your property appears to be caused by elevated water levels and waves associated with storms. The following recommendations are made as a result of the site visit and subsequent analysis of the problem:

1. The trees and shrubs growing on the bank and within 10 feet of the bank edge should be selectively cut or trimmed. Trees undetermined by erosion displace large amounts of soil when they fall. Tree removal should decrease the weight on the bank and reduce the chance of sloughing. The additional sunlight exposure should stimulate growth of the upland ground cover and marsh fringe. Before cutting any trees, please contact Northampton County at (757) 678-0442 for information concerning tree removal restrictions under the Chesapeake Bay Preservation Act.
2. After tree removal, a vegetative cover should be established on all bare areas. We recommend a mixture of native grasses or other low-growing vegetation. If you desire additional information about upland vegetation and soil tests, contact the Virginia Cooperative Extension Agent for Northampton County at (757) 414-0731.
3. The marsh grasses growing on your shore dissipate wave energy and bind the soil with their roots. We recommend you begin a periodic maintenance program for the grasses. Tidal debris should be periodically removed to prevent smothering of the grasses. The encroachment of trees and shrubs into the grasses should be prohibited.

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The program should increase plant vigor and promote growth.

4. To prevent further bank erosion, we recommend a properly designed and constructed riprap (large rock) structure. The structure should be installed to minimize encroachment beyond the mean high water position. The riprap should be constructed on a 2:1 (horizontal/vertical) slope or flatter. A minimum of two layers of armor rock should be used. Each armor rock should weigh a minimum of 50 pounds. The toe of the riprap should be buried a minimum of 2 feet below the mean low water elevation. An alternative to the buried toe is a riprap apron. The apron consists of 2 layers of armor rock extending a minimum of 4 feet onto the bottom. A layer of filter cloth should be used under and behind the riprap. The riprap should be extended inland or properly connected to neighboring structures to prevent erosional flanking. Lists of filter cloth and riprap suppliers have been enclosed. See the enclosed cross-sectional view of a typical riprap revetment.

5. An un-mowed vegetative buffer should be established wherever feasible along the bank. The minimum width of the buffer should be 10 feet landward from the bank edge. If access to the water is desired, a path may be mowed to the beach or other points along the shoreline. We recommend that you cut any access paths at an angle to minimize the effects of high water events directly up the path or sediments washing directly down the path. The un-mowed buffer will filter stormwater runoff from the yard and encourage bank stabilization.

The above recommendations are made in my capacity as an advisory agent in shoreline erosion control matters. The suggestions should not be considered as binding you to any particular course of action, as they are intended to indicate what we think would be the best solution in terms of cost and effectiveness. Our examination of the site or this report does not constitute permission by the Commonwealth, or its agencies, to proceed with implementation of control measures. Permits from State and Federal agencies are generally required for shoreline modification.

You should also be aware that success in shoreline erosion control can not be guaranteed, as there are many variables involved. In this regard, we suggest care in selecting a contractor. Our comments concerning construction are intended as guidelines developed from our experience in viewing structures that have been successful or have failed.

If you decide to construct a control measure, an assessment of the impacts of the project on the environment will be given by the regulatory agencies. Our advice is given with the idea of reducing environmental impacts associated with our recommendations. Although this has been considered in our recommendations, the permit reviewing agencies may desire additional

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information or measures.

Services available through this office include: review of the permit application; review of design and construction plans; and inspection of structures under construction when plans have been reviewed by this office. We recommend that a copy of this report be attached to the permit application.

If we maybe of further assistance or if you have any questions, please let me know.

Sincerely,

Michael L. Vanlandingham  
Shoreline Engineer

Enclosures (6)