

**NORTHAMPTON COUNTY
WETLANDS BOARD**
Minutes
October 19, 2011

This was the regular meeting of the Northampton County Wetlands Board held on Wednesday, October 19, 2011 in the upstairs county administration conference room 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, Mark Gates, Nancy Wells Drury, Dot Field and John Chubb.

Also attending were Hank Badger with the Virginia Marine Resources Commission (VMRC), Melissa Kellam, Zoning Administrator; Katrina Hickman, Zoning Inspector; and Kay Downing, Secretary to the Board.

The meeting was called to order at 10:22 a.m., and a quorum established.

All those wishing to speak at today's meeting were sworn in by the Chair.

Public hearings:

- A. VMRC 2011-1310:** Wayne Galbraith has applied for a permit to construct a riprap 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 the Board and Ms. Hickman had conducted a field visit to this property prior to the public hearing this day.

Ms. Kellam presented a brief over-view of the decision tree data for this property and situation resulting in a recommendation to utilize a rock sill than the project proposed.

Ms. Kellam stated that the applicant's drawings had not transferred in color making some notations hard to discern. She also noted that benchmarks as well as mean high and mean low water marks were not shown on the applicant's drawings and that staff could assist in making that correction.

She reminded the Board that the Virginia Institute of Marine Science no longer submits its recommendations to local Boards.

Mr. Galbraith was present and reviewed his application with the Board. He stated that nearby clam grounds should be protected and considered as well. Noting that the Board had discussed the option of a sill versus a revetment during the field visit, Mr. Galbraith stated his opinion that the area where trees were taken out by Hurricane Irene may be a good place to install a small sill, but the revetment is still his preference. He noted that 25 years ago the shoreline was lined with dense woodland that has since eroded. The shoreline is still very susceptible to hurricane and storm surge. His goal is to promote vegetation growth and stabilize the shoreline. Mr. Galbraith stated that he was advised to wrap the toe with filter cloth and that the depth of the toe had to be sufficient enough to hold. He also noted that the cost of the project should be considered as well.

Mr. Chubb asked why 3 years was being requested for project installation. Mr. Galbraith explained that he would be the prime contractor and will have a crew to move stones in place. He noted that he had installed the existing retaining wall himself and felt capable of handling the proposed project.

Mr. Gates expressed some concern that the rock proposed may be an inadequate size to create a stable revetment. Mr. Galbraith was of the opinion that the 25 to 150 pound rocks would be sufficient for the revetment after consulting with an agent from the Army Corps of Engineers (ACOE). Using this size stone would keep large equipment out of the project area as well.

Mr. Gates also asked the applicant if he had considered a sill as a better option. Mr. Chubb added that if the applicant would trim the trees, refill areas where the bank has been undercut, plant vegetation and install a sill then a revetment would not be necessary. Ms. Field agreed and noted that a sill could be installed easily at the most critical area of his property.

Mr. Galbraith explained that he was trying to protect the upland property and remaining trees and was skeptical that a sill would accomplish this goal.

However, Ms. Field disagreed in his assessment noting that the expansive stand of existing marsh grass should be preserved. It was her opinion that a good established marsh would make a better deterrent.

Mr. Galbraith was of the opinion that the rock revetment would prevent additional undercutting from occurring and he wanted to preserve the remaining trees along the shoreline.

Ms. Drury asked if the Board could grant a three-year permit period. Ms. Downing stated that it was her understanding that it is the Board's policy to automatically grant a one-year period for permits unless otherwise specifically stated in the Board's action.

Mr. Lusk stated his opinion that neither a revetment nor a sill would prevent a large storm surge from impacting the remaining trees as witnessed during Hurricane Hazel.

The Chair called for any other public comments. There being none the hearing was closed and the Board continued their discussion.

The Chair pointed out that this property has eroded only 5 feet in 50 years.

Ms. Field stated that 300 feet of riprap will cause a loss of vegetated wetlands and marsh grass. Ms. Drury agreed and noted that installing coir logs may be a better option to stabilize the area.

When asked, Mr. Badger stated that the Board can modify any application as long as the impact is the same or less than that applied for. In this case, if the sill is the same size or less than the proposed revetment the Board may make a substitution.

Mr. Chubb stated that he was in favor of allowing a sill, pruning trees, installing fill and planting new vegetation.

Ms. Field expressed her opinion that the existing tree stumps should not be removed. However, Mr. Chubb stated that the stumps will eventually rot forming holes. Mr. Field responded that if and when that happens the holes can be filled as part of a maintenance program.

Action:

Motion was made by Ms. Field to table this matter until a revised drawing can be submitted to the Board based on today's discussion of this application.

Mr. Galbraith asked for clarification and noted that he was not opposed to a sill in addition to a revetment at least 75 feet in length.

In clarifying her motion, Ms. Field stated that the Board proposes to modify the application by replacing the revetment plan with a sill, to allow fill of comparable existing soils where trees have been undercut, to allow the pruning of existing trees, and to allow revegetation with cord grass or other similar vegetation.

Mr. Galbraith was allowed to address the Board once again. He reiterated that he would prefer the revetment, be allowed to take out tree stumps and then fill because rotting stumps will eventually result in gaps and holes along the shoreline. He added that he will confer once again with the USACOE for advice concerning the motion and then plan accordingly. In the event that any deviation occurs from what the Board is recommending he will provide data and expertise to support those deviations. He added that 30 days would be ample time in which to provide a revised project drawing.

Second to Ms. Field's motion as clarified was made by Ms. Drury. The motion carried unanimously 6 to 0.

At 11:02 a.m. the Chair called for a five-minute break.

Old business

Continuance of VMRC 2011-0375: Karla Hehl has filed an after-the-fact permit for the removal of a failed bulkhead and construction of stone block and rip rap revetment approximately 500 feet long with 2 seventy-foot long returns to prevent flanking. The property is known as "Holly Bluff Island", zoned C Conservation, and described as Tax Map 123, double circle A, parcel 2.

Mr. John Burdiss, agent for the applicant, was present to answer any questions.

Ms. Kellam stated that the applicant's engineer had submitted 3 revised drawings dated October 18, 2011 depicting this project. These drawings were sent to all Board members for comments which in turn were relayed back to the engineer for further corrections.

Mr. Burdiss asked that the applicant would like a one-year time frame to complete the project if approved.

Mr. Badger questioned the work proposed around the geo-tubes as designated on the drawings. Ms. Kellam stated that the geo-tubes were previously approved under a different application several years or more ago. However, this application did not originally address any work around the geo-tubes.

Mr. Badger noted that if the geo-tubes were previously approved then they can be maintained and repaired. However, any new stone being proposed around the geo-tube areas would need to be addressed by the Board under a separate application.

Ms. Hickman noted that the letter received from Robert Cole of the USACOE also refers to that specific area. Mr. Badger suggested that the Board may wish to omit or exclude that part of the project in any action taken today.

Action:

Mr. Chubb agreed with Mr. Badger's suggestion and made a motion to approve the project as depicted on the revised drawings dated Oct. 18, 2011 except for the work involved at the geo-tube areas.

Mr. Lusk noted that the drawings dated Oct. 18th represent an entirely different project than the one that was originally approved; therefore, a penalty phase related to this project is a necessity in his opinion. He stated that he would vote to approve this project under Mr. Chubb's motion since going back to the project as originally approved would cause more environmental damage by removing what is now there. However, with no exception would he have supported this project if it had been originally presented first.

Second was made by Mr. Gates and the motion carried unanimously 6 to 0.

Ms. Kellam stated for the record that this action by the Board reflects local level approval only and approvals from the VMRC and USACOE must be obtained as well before the applicant proceeds.

Mr. Burdiss then asked staff if a history of this property permits related to wetlands projects could be provided. Ms. Kellam stated that she would provide such a history for his information.

Ms. Kellam noted that the penalty phase of this project will be in the form of civil charges filed to the court.

Motion was made by Ms. Drury that the county pursue a penalty for the actions that have taken place on this specific property. Second was made by Mr. Lusk and carried unanimously 6 to 0.

Mr. Badger reminded Mr. Burdiss that if the applicant wishes to pursue work around the geotube areas a new application will be required.

Ms. Drury expressed concern that inspections be carefully made during the completion of the project as approved by the Board.

New business

No discussion of the proposed "general permit" information as previously presented by VMRC at the September meeting was held at this time and will be rescheduled in the future.

While giving the Zoning Administrator's Report, Ms. Kellam stated that one new public hearing has been scheduled for the regular November meeting.

Ms. Kellam also noted that Mr. Granville Hogg's violation will be re-heard again at the November meeting based on consultation with the county attorney who has advised that property owners must be given 30 days notice prior to such a meeting.

During the Zoning Inspector's Report, Ms. Hickman and Ms. Kellam explained that violations will need to be processed according to code and that the appointment of an agent to the Chair and an enforcement agent would make this process smoother and less convoluted.

Motion was made by Mr. Chubb that Katrina Hickman be appointed as the official Enforcement Agent and that Melissa Kellam be appointed as Agent to the Board Chair. Second was made by Ms. Drury and carried unanimously 6 to 0.

Statements from the public: none.

Consideration of minutes:

Upon motion by Mr. Lusk and second by Mr. Gates the minutes of the September 21, 2011 meeting were approved as submitted. The motion carried unanimously 6 to 0.

Adjournment

There being no other business the meeting was adjourned at 11:32 a.m. upon motion by Mr. Lusk.

Chair

Secretary