

**NORTHAMPTON COUNTY
WETLANDS BOARD**

Minutes
August 20, 2014

This was the regular meeting of the Northampton County Wetlands Board held on Wednesday, August 20, 2014, 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, Nancy Wells Drury, John Chubb, Jr and William Brown, II., and Dot Field.

Those members absent were Vice-Chair Bowdoin Lusk and David Boyd.

Also attending were Hank Badger with the Virginia Marine Resources Commission (VMRC); Melissa Kellam, Zoning Administrator and Agent to the Board Chair; Nyoka Hall, Board Secretary; and Kelley Lewis, Development Inspector.

The meeting was called to order at 10:30 a.m., and a quorum established.

Public Hearings

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

Ms. Kellam read the public notice and decision tree details into the record for:

VMRC 2014-0725: The Johnathan Philip/Deborah Gordo Joint Revocable Living Trust has applied to install approximately 200 feet of stone breakwater in the intertidal area of their property, between the existing rip rap revetment & the MLW mark. Approximately 1,800 cubic yards of quality sand nourishment will be placed behind the breakwater to an elevation of +4. The breakwater will be constructed of armor stone with a core of class I rip rap stone. The property is located at 3256 Sunset Way and is described as Tax Map 28, double circle 5, parcel 2A, located along the Chesapeake Bay in the Sunset Shores Subdivision in Machipongo.

Project Summary – VMRC #2014-0725 The Johnathan Philip/Deborah Gordo Joint Revocable Living Trust

The “Decision Tree for Existing Revetments” will be used to provide recommendations for this project along with maps from the Northampton County CCRMP Map Viewer. The shoreline on this property is currently defended with an existing revetment. The applicant proposes to place breakwaters between the revetment and mean low water. The decision tree is attached and the analysis shows the pathway highlighted in blue. The decision tree pathway makes the following recommendations: Consider if revetment is actually needed at this location; if not, consider removing it. If so, inspect and maintain. The CCRMP Map Viewer recommends: (1) Maintain beach or offshore breakwaters with beach nourishment; and (2) Grade bank. The proposed project is not consistent with CCRMP Map Viewer in that the existing revetment is not a recommended structure.

The chair called for public comments.

Ms. Ellen Grimes, the agent for the property owner was present. She stated there was SAV related to the site, which would cause the proposed breakwater to be moved landward. With the relocation of the breakwater the height would be reduced in footprint and height and nourishment would be placed behind it. Ms. Grimes noted the original revetment was installed in 2006 and the toe was two feet below the existing beach grade at that time and described as unacceptable. There was a plan in 2007 to reconstruct the revetment with a deeper stone wall to maintain the toe. The breakwater seeks to build up sand and build up the beach. Ms. Grimes noted she was open to suggestions and negotiation to move the application forward. There were no further comments from the public, the hearing was then closed.

Mr. Chubb stated rip rap was present and did not appear to be failing, nor were there signs of erosion. The shoreline appeared stable. He questioned the purpose of the breakwater and keeping sand behind the structure.

The hearing was reopened to the public to entertain comments from Robert Cole, of the Army Corps of Engineers.

Mr. Cole stated that sand placement behind breakwaters is discouraged. The purpose of the breakwater is to dissipate energy. He requested justification be presented showing a need for the proposed structure as the shoreline is already armored and is not in need of protection.

The hearing was then closed to the public as there were no further comments.

Ms. Field stated her objection to the project as presented, and noted there was not a demonstrated need. There is ample vegetation and no signs of failure. Mr. Badger added that a modified proposal would have to be presented.

Ms. Grimes requested permission to speak. The Chairman granted the request at which Ms. Grimes stated that several designs had been considered prior to submitting the presented option. The applicant is willing to do whatever is needed to obtain approval. She then asked that the Board table the matter till the time revised drawings can be submitted.

Mr. Chubb then motioned that the application be tabled till the time revised drawings are submitted. The motion was seconded by Ms. Drury, with all in favor 4 to 1 with Mr. Brown abstaining.

Ms. Kellam read the public notice and decision tree details into the record for:

VMRC 2014-0925: Leigh & Pauline Hagan and Tom & Margaret Waller wish to address shoreline erosion control by building approximately 80 feet +/- and refurbishing approximately 10 to 12 feet of rip rap revetment. The revetment will vary in height according to the bank height. The toe of the structure will be installed landward of the marsh fringe. The properties are described as Tax Map 1A, double circle 5, parcel 18 located at 2723 Old Neck Road and Tax Map 1A, double circle 5, parcel 17 located at 2681 Old Neck Road, near Exmore.

Project Summary – VMRC #14-0925

The “Decision Tree for Undefended Shorelines” will be used to provide recommendations for this project along with maps from the Northampton County CCRMP Map Viewer. The shoreline on this property is currently defended with a 10-foot to 12-foot existing revetment at the northern property line. The applicant proposes to refurbish the existing revetment and construct 80 additional feet of revetment long the shoreline to the southern property line. The decision tree is attached and the analysis shows the pathway highlighted in blue. The decision tree pathway makes the following recommendations: Vegetation management of the marsh and / or riparian buffer. The CCRMP Map Viewer recommends: (1) Enhance and maintain riparian and / marsh buffers; and (2) widen the marsh. The proposed project is not consistent with the decision tree and CCRMP Map Viewer in that the revetment is not a recommended structure. Only non-structural measures are recommended.

The chair called for public comments.

Ms. Ellen Grimes, the agent for the property owner was present. She stated that the project crossed over the boundary line to the neighboring property, to which that property owner is agreeable and is a part of the application. The trees that are leaning and falling will be removed to enhance the marsh fringe. A variance was recently obtained for an addition that will encroach into the buffer due to the lot being so old and small in size. The applicant is seeking to minimize the sloping and manage the marsh by removing trees and planting marsh alterna flora. The Comprehensive Coastal Resource Management Portal (CCRMP) recommends planting and fertilizing along with cutting the bushes to enhance vegetation to thicken the marsh. She noted that the flow chart determination did not apply to the present situation. She did express that the applicant was open to options to enable approval of the proposed project.

Mr. Chubb questioned if the bank would be dug back since the toe would be installed landward of the marsh fringe. Ms. Grimes confirmed that she would be digging back the bank. Ms. Field added that the stone was not in the marsh, and questioned if it was in the Wetlands Board jurisdiction. Ms. Grimes replied that a portion of it is, but the rear of the bulkhead probably would not be. Ms. Field noted that the vegetation looked good and probably should not be removed. Mr. Chubb stated that the stone would be placed landward of the holly tree, which would place it in the marsh. Ms. Grimes noted that she could work around the holly tree as she had no intention of removing it.

The hearing was then closed to the public as there were no further comments.

There was some discussion regarding the vegetation and whether all trees across the bank would be removed no matter the condition. The Chairman asked Ms. Kellam, Zoning Administrator to speak to vegetation removal. Ms. Kellam noted

that as part of the Water Quality Impact Assessment (WQIA) grading must be illustrated and mitigation would need to be done for every four hundred square feet of area disturbed equating to one mitigation unit, having to be installed at 1 canopy tree, 2 understory, and 3 shrubs. She stated that staff could not tell the applicant that the trees could not be removed. If the wetlands project is approved and staff doesn't allow tree removal, it would be changing the project. The WQIA is the mechanism that helps to balance what is being removed. Mr. Chubb then asked, if the application was denied could the trees still be removed. Ms. Kellam answered yes, by zoning clearance; if the trees proved to be shading and preventing growth, were diseased, dying or dangerous.

Ms. Field motioned the project be denied as presented, Mr. Brown seconded the motion. The motion carried 4 to 1, Ms. Drury voted against.

The Chairman recessed the meeting for 5 minutes.

The Chairman called the meeting to order.

Ms. Kellam read the public notice and decision tree details into the record for:

VMRC 2014-0848: Jeff Rudden, et al has applied to install a 258 foot long replacement bulkhead with a stone toe to prevent further erosion. The bulkhead will be tied into the existing return wall on the southern adjacent lot; angled approximately 45 degrees before running north to end of eroded area, with a second 45 degree wall, then returning west to meet the existing bulkhead on the subject property. The property is described as Tax Map 18C, double circle 1, parcel E, located along the Chesapeake Bay south of Silver Beach near Nassawadox Point on Chesapeake Drive.

Project Summary – VMRC #14-0848

The “Decision Trees for Existing Bulkheads and Existing Groins” will be used to provide recommendations for this project along with maps from the Northampton County CCRMP Map Viewer. The shoreline on this property is currently defended with a nonfunctional bulkhead and groins. The applicant proposes to construct a new bulkhead with riprap scour protection. The decision trees are attached and the analysis shows the pathway highlighted in blue. Decision tree pathways make the following recommendations: Remove bulkhead and groins and construct offshore breakwaters with beach nourishment. The CCRMP Map Viewer recommends: (1) Maintain beach or construct offshore breakwaters with beach nourishment; and (2) Grade bank. The proposed project is not consistent with the decision tree and CCRMP Map Viewer in that the bulkhead and toe scour protection are recommended structures.

The chair called for public comments.

Katrina Hickman, the agent for the applicant was present. She explained that the existing bulkhead was part of a continuous bulkhead that suffered a minor blow out in 2009 and was never repaired by the previous property owner. This has contributed to the continued wash out of the bulkhead and groin along with 50 feet of the uplands. They want to be consistent with construction of the bulkhead with toe scour especially with the erosion taking place on the separate end. Mr. Chubb inquired about the height of the proposed bulkhead. The drawing shows it being seven to nine feet high, which is consistent with the bulkhead to the south, but the land where it would be located is considerably higher than that. He had concerns about the ability to bring it back at a reasonable level. Ms. Hickman noted the area would be graded back to make it one half a slope and the eroded area will be backfilled. Mr. Brown asked how substantial the aprons on the inside corners would be and would the old pilings be removed. Ms. Hickman could not answer the apron question, as Mr. Bunce would be handling that portion of the project and he was not present to speak to that. She did state that the old pilings would be removed.

The hearing was then closed to the public as there were no further comments.

Ms. Drury stated the property had considerable erosion and the approach was a reasonable one considering the situation. A motion was made by Ms. Drury to approve the project as submitted, Mr. Chubb seconded. The motion carried unanimously with all in favor 5 to 0.

Old business

A. Consider reactivation & extension of Wetlands/Coastal Sand Dune permit

VMRC 2013-0974: Joseph & Evelyn Witek have applied to address an eroding shoreline by employing efforts to rebuild and augment the existing marsh fringe using beach nourishment and marsh grass plantings with a coir log retention system approximately 110 feet by 30 feet partnered with a backshore rip rap bank toe stabilization structure (approximately 160 ft.) as an erosion preventative behind the created system, along with a second minimal toe protection structure in a second location along the same shoreline (approximately 100 ft.) to deter further erosion. The property, located at 6214 Pennington Lane, is described as Tax Map 14, double circle 8, parcels 1 & 2 with frontage on Holly Grove Cove.

Ms. Ellen Grimes, the agent for the property owner was present. She informed the Board that the property owner had the intention of beginning the project, but became ill. There have not been any changes to the proposed project. She requested the project be extended based upon extenuating circumstances.

A motion to reactivate and extend the permit for one year was made by Ms. Drury, and seconded by Ms. Field. The motion carried unanimously 5 to 0.

New business

Bay Act & JPA Process – Consider requirement of WQIA with submittal prior to hearing

Mr. Chubb questioned what would happen to the WQIA when the application was modified. Also there was concern as to whether an application would be held up due to the WQIA not being filed. No one objected to having the WQIA, but wanted more information to make an informed decision that would not hinder the applicant or the Board. A decision was not made regarding the matter, as Melissa Kellam was not present to field the questions asked. The matter would be taken up at a later date.

CPAP Memo from Art Schwarzschild –

In considering the memo received from Mr. Schwarzschild, it was the consensus of the Board that all were aware of the proposed amendments, but would not be taking a formal position on the matter.

Statements from the Public

Ellen Grimes spoke about the daunting process of completing a WQIA. She stated the process needed to be seriously abbreviated to make applying for projects much simpler. Mr. Badger read a passage from the Wetlands Ordinance stating that “no later than 60 days after receiving a completed application”. Mr. Chubb asked what was it referencing the WQIA or the JPA. Mr. Cole stated that a JPA is also for the Federal Government, Department of Environmental Quality (DEQ) and other agencies and each have a different idea of what a completed application is. A determination was unable to be made and staff was requested to do further investigation and report back to the Board.

The chair asked if there would be a meeting in the month of September. It was determined that no applications had been submitted at this time, so the board would not be meeting.

Ms. Drury mentioned a site that was previously approved looked to have done more work than approved. She requested the Development Inspector review the application and report back to the Board.

Consideration of Minutes

A motion to accept the minutes as presented was made by Mr. Chubb and was seconded by Ms. Drury. The motion carried unanimously 5 to 0.

Adjournment

The meeting was adjourned at 12:00 p.m.

Chair

Secretary