

NORTHAMPTON COUNTY
WETLANDS BOARD
Minutes
May 15, 2013

This was the regular meeting of the Northampton County Wetlands Board held on Wednesday, May 15, 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, Mark Gates, Nancy Wells Drury and Dot Field. Absent from the meeting was John Chubb, Jr., and Will Brown.

Also attending were Randy Owen with the Va. Marine Resources Commission (VMRC) due to the absence of Hank Badger; Melissa Kellam, Agent to the Board and Zoning Administrator; and Kay Downing, Board Secretary.

The meeting was called to order at 11:02 a.m., and a quorum established. All those wishing to speak at today's meeting were sworn in by the Chair.

It is noted for the record that those Board members present and Ms. Kellam had conducted field visits to each property scheduled for public hearings this day prior to the scheduled meeting.

Public Hearings

The first hearing was called to order. Mrs. Downing noted that the applicants had submitted additional information which had been copied and presented to the Board and is attached as part of the record.

- A. VMRC 2013-0290:** Linda Leatherbury and Spencer Brudno have applied to replace and extend a damaged retaining wall with the new construction to be placed landward of the existing structure. The location is described as Tax Map 47, double circle A, lots 62, 63 and 64 at Hungars Beach located on the Chesapeake Bay.

Ms. Kellam reviewed the project summary with the Board as follows. She also noted a correction to each summary that site visits occurred in April and not May.

Re: Project Summary – VMRC #2013-0290 Brudno

On ~~May~~ April 26, 2013, I conducted a site visit to verify that the project area had been staked and conducted a site assessment for staff to complete the appropriate decision trees. I could only see the two points staked at each end. Even though the bank was high and some erosion

has taken place, the bank still seemed somewhat stabilized by existing vegetation. The project's shoreline is divided into two sections "Defended Shoreline Decision Tree Existing Bulkhead" located to the north and "Undefended Shoreline" located to the south. Both decision trees are attached and the analysis for both pathways highlighted in green. For the northern section, defended by a failing bulkhead, the decision tree recommends the following: (1) remove failing bulkhead, (2) construct offshore breakwaters and (3) beach nourishment. For the southern section the decision tree recommends the following: (1) manage forest to prevent tree falls, (2) construct sills or breakwaters where necessary and (3) beach nourishment.

The proposed project alignment impacts a considerable area of beach, but if re-aligned closer to the bank will cause damage to the forested buffer area. If any remnant dunes are still present to the south, they will also be greatly impacted by the return wall and rip rap proposed. It is clear through both decision trees that the proposed bulkhead and groins may not be the best possible design solution for this site. The applicant and Board may want to discuss and consider alternative options presented in the decision trees.

Mr. Chris Wilson, agent, stated that due to both personal and professional reasons the applicants cannot be present today, but can attend in June if it is the Board's pleasure to hear from the applicants in person. He also noted that the narrative description of the project did not contain information about the groins that are depicted on the project drawings. Therefore, a revised public notice would need to be advertised.

The Chair called for public comments. None were received.

Action:

After discussion motion was made by Mr. Lusk that the Board table this matter until the June meeting in order to re-advertise and allow the applicants the opportunity to appear. The motion was seconded by Ms. Drury and carried unanimously.

The next hearing was called to order.

- B. VMRC 2013-0462:** Johnston Residence Management Trust c/o Anne Johnston has applied to construct three (3) low profile rock sill structures and to fill and plant marsh grass in order to address erosion and to create wetlands. A low revetment will be constructed behind the constructed sill/wetlands structures in places along the toe of the bank to preclude further toe erosion. The property is located at 14128 Oak Grove Road with frontage on Mattawoman Creek and is described as Tax Map 47, double circle 6, parcel A.

Ms. Kellam reviewed the project with the Board as noted below.

Re: *Project Summary – VMRC #2013-0462 Johnston*

~~May~~ April-26, 2013, I conducted a site visit to verify that the project area had been staked and conducted a site assessment for staff to complete the appropriate decision trees. The project had been staked. The "Decision Tree for undefended Shorelines" will be used to provide recommendations for this project. The face of the bank is stable, but the toe of the bank is undercut. The decision tree is attached and the analysis shows two pathways highlighted in green. The decision tree recommends the following for the low bank pathway: (1) vegetation management of the marsh and / or the riparian buffer. The decision tree recommends the following for the high bank pathway: (1) grade bank and vegetate and (2) construct rock sill channel ward of marsh.

The proposed rock sill is consistent with the decision tree recommendations, but the proposed revetment is not consistent with the recommendations. Because of the excellent opportunities on this site for the bank to be graded and vegetated, the applicant and Board may want to consider this option instead of the proposed revetments.

Ellen Grimes, agent, gave a brief history of the project area noting that the entire shoreline was graded in the past and vegetation was established which worked well for decades. However, erosion has drastically increased over the last 4 to 5 years.

Jim Webber, caretaker and manager of the property, stated that the graded shoreline has seen constant deterioration in the last 4 to 5 years which has escalated in the past 2 years due to severe storms.

Ms. Grimes also noted that the property is on the Historical Registry and needs to be preserved in a natural way if possible.

There being no other comments the hearing was closed.

Ms. Field stated that she agrees with the sills to stop or decrease the wave energy and erosion; however, she was not supportive of the revetment part of the project. Mr. Lusk and Ms. Drury concurred.

Mr. Gates inquired about how the project would impact wave hydrology. Ms. Field noted that the water will be able to ebb and flow over the sills while dissipating some wave energy. However, caution must be used in spacing to prevent tom bolos from occurring.

When asked by Mr. Lusk, Ms. Grimes gave her professional opinion that if the revetment is eliminated from the project then the "scallop" would be left in place along the bank and it would be "feathered in" by creating a gentler grade. Fill and vegetation would be installed as well as sills.

A 5 minute break was taken at this time in order to allow the agent and her applicant to confer.

Ms. Grimes stated that her clients were concerned that the revised project as suggested by the

Board could fail within 2 years and they would have to start over again while losing shoreline. She asked if the fill and sill did not work within a certain time frame could the revetment be installed without having to start another application process.

The Board, by consensus, would not agree to such a conditional “piecemeal” approval as it would be precedent setting. Ms. Kellam noted that benchmarks could change in the interim and the permit could also expire. Mrs. Downing added that the Board can issue permit approvals for more than a one year period.

Ms. Anne Johnston was allowed to speak. She noted that she and her siblings desire to preserve the property in its natural state as much as possible and did not want to utilize stone. However, conditions are changing due to any number of possible reasons such as sea level rise or increased storm events and intensity. Their goal is to install a long-term project that will endure for years to come.

Ms. Grimes then suggested that instead of a rock-grade revetment coir logs could be installed and should last long enough for the bank to heal itself and new vegetation to be established.

The Chair asked when the bank was originally graded. Ms. Grimes stated around 1990-91.

Ms. Field noted that the installation of coir logs would be less intrusive in her opinion and eventually the logs will disappear in the sand.

Mr. Lusk suggested that grading and changes should be depicted on revised project drawings.

It was noted that unless the revised project results in more impacts it would not have to be re-advertised. Also, revised drawings should depict all changes as suggested and agreed upon.

Action:

Motion was made by Ms. Field to approve the project with revised drawings showing removal of the stone revetment to be replaced with coir logs and also depicting the grading of the bank. The motion was seconded by Mr. Gates and carried unanimously.

The last hearing was called to order.

- C. VMRC 2013-0555:** Joseph & Evelyn Witek have applied to install approximately 160 linear feet of rip rap revetment and approximately 100 linear feet of rip rap marsh toe protection. The property, located at 6214 Pennington Lane, is described as Tax Map 14, double circle 8, parcels 1 & 2 and has frontage on Holly Grove Cove.

The project summary was reviewed by Ms. Kellam for the Board as follows.

Re: Project Summary – VMRC #2013-0555 Witek

~~May~~ On April 26, 2013, I conducted a site visit to verify that the project area had been staked and conducted a site assessment for staff to complete the appropriate decision trees. The project had been staked. The “Decision Tree for Undefined Shorelines” will be used to provide recommendations for this project. Some erosion has taken place on the bank of varying height, but the bank still seemed somewhat stabilized by existing vegetation. The decision tree is attached and the analysis shows three pathways highlighted in green. The decision tree recommends the following for the low bank pathway: (1) vegetation management through forest stewardship. The decision tree recommends the following for the high bank pathway with marsh: (1) manage forest to prevent tree falls and (2) marsh with fiber log. The decision tree recommends the following for the high bank pathway with no marsh: (1) manage forest to prevent tree falls, (2) construct sill or breakwater where necessary and (3) beach nourishment.

Although the proposed project is not consistent with the decision tree recommendation, a revetment may be appropriate in areas where the bank is steep and undercut and the bank cannot be graded because it would result in the significant removal of forested buffer. The applicant and Board may want to discuss and consider alternative options presented by the decision trees.

Ms. Grimes, agent, stated that this shoreline has eroded over the last 4 to 5 years and now large trees have fallen after the last 2 large storms. She noted that the shoreline’s northern exposure is a real issue. She added that the applicant cannot financially afford an offshore breakwater system due to costs. She also noted that the existing pond is a concern of which half is owned by the applicant. All work would be done from the beach in order to alleviate disturbance of the upland and removal of additional trees to allow equipment access. When asked, Ms. Grimes stated that a revetment is cheaper to install than a breakwater due to the more costly heavier rock, additional fill, type of heavy equipment needed for installation and work constraints added because of tide cycles.

Mr. Lusk stated that he had observed that the shoreline to the west of the dock had much less erosion perhaps because of the tree stumps and roots that are stabilizing the area. If that type of stabilization could be duplicated on the other side of the dock it may eliminate the need for a breakwater perhaps.

When asked, Ms. Grimes noted that the bank is not going to be graded at all, but will have a slope created without cutting.

When a sill was suggested instead of a breakwater or revetment, Ms. Grimes expressed concern that the sill would not be effective enough given the north facing exposure of the property.

Ms. Field stated her opinion that the area is starting to heal itself now and natural stabilization is occurring. These features should not be disturbed in order to install a revetment. She suggested that a low sill be utilized to help break the wave energy coming onshore. Ms. Grimes suggested that an embankment toe be added along with a sill. She noted that she has

witnessed chunks of shoreline literally falling along this property.

The Chair called for public comments and none were received. Therefore, the public hearing was closed. He noted that the Board may call upon the agent again.

Ms. Drury stated her opinion that the real solution to the problem for this property is an off-shore breakwater.

Ms. Grimes suggested lowering the revetment and grade backward.

Mr. Lusk stated that the bank is cutting out underneath and agreed that an offshore breakwater would be the best project.

Ms. Grimes noted her concern about the amount of sand moving along this beach since the beach area is about 600 feet.

Ms. Field noted that the sand source would be cut off if the project is installed and would starve the beach. It was her opinion that the compromise between a breakwater and a revetment is a sill.

Ms. Field added that she was concerned about the dune as well and also suggested a low-profile sill as a compromise to a breakwater. However, Ms. Grimes was of the opinion that durational winds and waves will still impact the shore even if a low profile sill is installed due to the north exposure. She added that the area is very shaded which does not promote vegetation growth.

Action:

Motion was made by Mr. Lusk that disturbance of the shoreline to the western side of the dock be eliminated, that the height of the revetment be reduced by half to 4 feet, and the area be sloped, vegetation be installed as much as possible and that a revised project drawing be submitted.

During discussion various suggestions were made related to the project and the area to be impacted.

Second was made by Mr. Gates and the motion failed 2 to 3 with Ms. Field, Ms. Drury and Mr. Cox voting "no".

Noting that an offshore breakwater is the best project solution in her opinion, motion was made by Ms. Drury to deny the application as submitted. Second was made by Ms. Field

Mr. Lusk noted that other project options are available besides an offshore breakwater.

Ms. Drury reminded the Board that a whole shoreline is now hardened because the Board allowed installation of an inferior alternative project instead of a needed breakwater. She expressed her opinion that she would not allow the cost of a project to impact her decisions and neither should the Board.

Mr. Lusk stated his opinion that the applicant can appeal this denial if approved and will probably win.

The Chair called for the vote and the motion carried unanimously to deny the application.

Ms. Grimes voiced her frustration in the Board's decision noting that the same project drawings cannot be resubmitted for another 12 months. It was her opinion that the project was consistent with others that have been approved in the past.

Old Business

By consensus, the board postponed discussion and comments on the Final Permit Fidelity Report & VIMS workshop that had been attended by Mr. Chubb and Ms. Drury.

New Business: none.

Statements from the Public: none.

Agent to the Board Chair Report

Melissa Kellam reported that there will be at least 3 public hearings scheduled for the June meeting.

Enforcement Agent Report

No new violations were reported by staff.

Consideration of Minutes

The minutes of the March 15, 2013 minutes were approved as submitted upon motion by Mr. Lusk and second by Ms. Drury. The motion carried unanimously.

Adjournment

Prior to adjourning Mr. Gates announced that his term would be fulfilled the end of June and that he would not be seeking reappointment.

There being no other business the meeting was adjourned at 12:32 a.m.

Chair

Secretary