

Virginia: At a meeting of the Accomack County Wetlands Board, held in the chambers of the Board of Supervisors on the 22nd day of September, 2011, A.D.

Members present:

Mr. George T. Parker, Chairman (ABSENT)
Mrs. Lee L. Merrill, Vice-Chairman
Mr. C. Lee Davis
Mr. Earl B. Frederick
Mr. George H. Ward, Jr.

Mr. David Fluhart, Secretary
Mrs. Marie E. Fox, Recording Secretary

Alternate Members Present:

Mr. Mikel Patti (ABSENT)
Mr. Gene Wayne Taylor

Others present:

Mr. Hank Badger, VMRC
Mr. Robert H. Cole, USACE

The meeting was called to order by Vice-Chairman Lee L. Merrill, and opened to a public hearing at 10 AM. All applications are approved for a one year period from the date of this hearing, unless specifically noted. All applicants, speakers and representatives are sworn in before the Board on the following wetlands applications:

This Board is aware of and complies as closely as possible to the objectives of the Virginia Marine Resource Commission's Wetlands Policy of No Net Loss.

1). CONTINUED FROM AUGUST 25, 2011

EXTENSION REQUESTS

Mr. Fluhart advised that after sending letters to address the expiration of the following permits and completed County tax forms in order to process their requests, our

office has yet to receive any responses. Mr. Fluhart further advised that he recommends not extending the following and each can submit a new application for review.

Mr. Luke Britton, appeared before the board to speak for Raymond Britton, Jr. of BIC, Inc. whom was notified of the extensions of the following:

- 1). **Sunset Bay, VMRC #07-1279**
- 2). **Marine Railway, VMRC #06-0047**
- 3). **Chincoteague Landmark, VMRC #05-2660**
- 4). **Clarence Clark, VMRC #10-0434**
- 5). **Captain's Cove Group, LLC, VMRC #09-1124**

After a lengthy discussion, concerning the projects intended for the Marine Railway and Chincoteague Landmark property, which have already been permitted under the ownership of Harmony Investments and those permits are valid at this time.

Mr. Ward made a motion to deny extensions for the

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applications. Mr. Frederick seconded the motion.

No one appeared to represent nor oppose these extension requests.

A discussion ensued regarding valid permits for Harmony Investments, which are valid and not affected by this denial of the Board today. Ayes: Mr. Davis, Mr. Frederick, Mr. Ward, Ms. Merrill. Nay: Mr. Taylor.

3). **NEW BUSINESS**

- 1). **An application from Mr. and Mrs. Ronald Bakely, VMRC #11-0793, for the installation of a bulkhead, thereby impacting wetlands across from 3616 Main Street, Chincoteague, Virginia TM#30A3-A-41**

Mr. Luke Britton, contractor, appeared before the board to represent this application for the installation of a bulkhead impacting 11 square feet of vegetated wetlands and has proposed to keep the proposal in line with the adjacent bulkhead.

Mr. Britton advised he proposed to remove the rip rap from one property line to other and the proposed bulkhead would be in the same alignment as the location of the stone. He further agreed to contribute into the Wetlands Mitigation fund for the 11 square feet of vegetated wetlands that will be impacted as a result of this proposal.

A discussion ensued regarding a pipe that was installed by the Town of Chincoteague between Mr. Bakely's property and the adjoining property owner. Pictures of the area and of the pipe were presented for the board to review.

At this time Mr. James Bowers appeared before the Board as the adjacent property owner and presented photographs of the area and advised his opposition to the proposal as he believes it will divert the natural flow of the water and have a direct impact on the foundation of his existing home.

A discussion ensued, and Mrs. Bowers appeared and read a letter into the record from another adjacent property owner, which stated, "Dear Jim, I understand from our phone conversation that the owner of the lot north of you intends to install a bulkhead against the channel. You seem to think that if that is done a lot of the drainage of that lot and the street in times of heavy rain and storm surge will be funneled back to the channel thru your lot."

"I think you are most likely correct in that assumption. The lot owner to the south of us installed a bulkhead several years ago and that is exactly what occurred on our property. Fortunately we have had little damage to date, but who knows what future storms may do."

"I am unable to join you at the hearing, but this is essentially what I could testify."
"Good Luck, Bill (William H. Browning) owner of lot at 3599."

A discussion ensued regarding the placement of the bulkhead as well as the return walls and the fill involved.

Mr. Bakely appeared before the board to explain the placement of the pipe, installed by the Town of Chincoteague and that Mr. Bowers had filled in the upland of his property and it is much higher than the Bakely property.

After the discussion, Mr. Hank Badger, of VMRC, appeared before the Board and read a portion of the Code of Virginia, which stated in Section 28.2-1302 subsection 3 “The following uses or land and activities in wetlands are authorized if otherwise permitted by law:” Number 10, “Governmental activity in wetlands owned or leased by the Commonwealth or a political subdivision thereof; and . . . Number 11. “The normal maintenance of man-made drainage ditches, provided that no additional wetlands are covered. This subdivision does not authorize the construction of any drainage ditch.” Mr. Badger continued by advising the Town most likely had an easement for drainage through the property.

At this time, Mr. Luke Britton advised his reasoning for not wanting a slant on the bulkhead, because it would affect the property of the adjacent owner.

Mr. Fluhart further explained the process regarding the jurisdiction of the Wetlands Board and the fill is handled by the Planning Department in regard to the land disturbance. Concerns regarding the amount of fill for the Bakely lot ensued and the pipe installed by the Town without obtaining the proper permits.

At this time, Mr. Davis made a motion to approve this application upon receipt of a revised drawing locating the pipe and return wall in place so that we see that it is not disturbing the pipe at all or the swale and with the payment into the mitigation fund for

the 11 square feet of vegetated wetlands being disturbed. Mr. Taylor seconded the motion. Ayes: Ms. Merrill, Mr. Davis, Mr. Frederick, Mr. Taylor, Mr. Ward.

5). **OTHER BUSINESS**

1). **Discussion regarding Living Shoreline questionnaire.**

At this time, Mr. Fluhart introduced, Mr. Rich Morrison, new Director of Planning and Economic Development for Accomack County, Mr. Hank Badger, VMRC, Ms. Molly Ruggerio of VIMS, Mr. Robert Cole of the USACE.

RECESS: The meeting was called for a 5 minute recess at 11:05 AM.

RECONVENE: The meeting reconvened at 11:10 AM.

Mr. Hank Badger appeared before the board to review Senate Bill 964 and passed in the 2001 session of the General Assembly which basically asked VIMS and VRMC to address the possibility for permits for living shorelines.

Mr. Badger continued by presenting a Powerpoint Presentation regarding Living Shorelines and opened discussion of same.

After a lengthy discussion, Mr. Fluhart advised this discussion would be placed back on the agenda for further review at the next meeting.

ADJOURNMENT

Mr. Ward made a motion to adjourn the meeting at 11:50 AM. Mr. Frederick seconded the motion. Ayes: Ms. Merrill, Mr. Davis, Mr. Frederick, Mr. Taylor, Mr. Ward.

Ms. Lee L. Merrill, Vice-Chairman