

ACCOMACK COUNTY WETLANDS MINUTES OF NOVEMBER 21, 2019

At a meeting of the Accomack County Wetlands Board held on the 21ST day of NOVEMBER 2019 in the Accomack County Administration Building Board Chambers, Room #104, in Accomac, Virginia.

1. CALL TO ORDER

MEMBERS PRESENT AND ABSENT

Wetland Board Members Present

Mr. Earl Frederick, Chairman

Mr. George Ward, Vice Chairman

Mr. Timothy Getek

Mr. Gene Wayne Taylor

Mr. T. Lee Byrd

Others Present:

Mr. G. Christian Guvernator IV, PE, Director Environmental Programs

Ms. Chontese Ridley, Environmental Programs Permit Specialist

Mr. Hank Badger, Virginia Marine Resources Commission (VMRC)

DETERMINATION OF A QUORUM

There being a quorum, Chairman Frederick called the meeting to order at 10:00 a.m.

2. ADOPTION OF AGENDA

There was a request from Ms. Ellen Grimes to modify the agenda.

Ellen Grimes, (CRM, LLC), appeared before the Wetlands Board and was sworn in by Chairman Frederick. Ms. Grimes asked if her two projects could be moved to the front of the line so that she could leave early.

Chris McCabe, (Coastal Compliance Solutions), appeared before the Wetlands Board and was sworn in by Chairman Frederick. Mr. McCabe agreed to let Ms. Grimes present her projects first.

Mr. Getek also requested an amendment to the agenda. He asked to speak during "Other Business" on a scientific meeting that he went to and the Marsh Resilience Summit. Mr. Frederick asked about the guest Mr. Getek previously said he was going to invite. Mr. Getek said he was going to speak on it briefly at this meeting, and then maybe have Shannon Alexander come to the December meeting.

On a motion made by Mr. Taylor and seconded by Mr. Ward, the Wetlands Board voted to approve the agenda.

3. MINUTES

A. September 26, 2019

On a motion made by Mr. Byrd and seconded by Mr. Getek, the Wetlands Board voted to approve the minutes September 26, 2019 meeting.

4. **NEW BUSINESS**

A. Cynthia Freeman– VMRC# 2019-1550

3206 Main Street

To install 122 feet of coral rock stone revetment, dredging of an existing canal, and to install 160 feet of low profile sheeting. The property is located on Chincoteague Island, VA 23336, Tax Map #30A5-A-96A.

Ms. Ellen Grimes, (CRM, LLC), appeared before the Wetlands Board on behalf of the applicant and had already been sworn in by Chairmen Frederick. Ms. Grimes started with a short summary stating that Ms. Freeman, (the applicant), previously requested a permit for a replacement bulkhead. Due to the its situation on the elbow of the Assateague Channel, they were now requesting to put in a rip-rap toe scour. She added this would be an amendment to the original permit. It would be 100-120 feet across the bulkhead and around, 2-3 feet in height, and done with Class II stone.

Ms. Grimes mentioned there was currently a lot of stone there that had worked its way into the sand that would have to be removed. Mr. Frederick asked if there would be any additional impacts to wetlands. Ms. Grimes responded no. Mr. Frederick asked if any work had been started and Ms. Grimes responded no again. Mr. Getek ask if Mr. Badger if he was okay with the amount of wetlands being impacted. He said there was 6 square feet indicated and Ms. Grimes informed him that was from the previous application. That 6 square feet had been paid for.

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted to issue a permit (valid for (1) year) for Cynthia Freeman– VMRC# 2019-1550 to install 122 feet of coral rock stone revetment, dredging of an existing canal, and to install 160 feet of low profile sheeting. The property is located on Chincoteague Island, VA 23336, Tax Map #30A5-A-96A.

B. Joseph & Kristen Pechacek– VMRC# 2019-1639

27327 Martin Road

To install two 47 feet by 8 feet by 3-3½ feet of quarry stone sills and a 14 feet by 6 feet by 2½ feet back sill. A marsh toe rip rap apron with a total width of 4 feet (plus or minus), and height of 2-2½ feet will be installed. The property is located in Harborton, VA 23389, Tax Map #90-A-14C.

Ms. Ellen Grimes, (CRM, LLC), appeared before the Wetlands Board on behalf of the applicant and had already been sworn in by Chairmen Frederick. Ms. Grimes said they tried to plan this project like a living shoreline. There will be stone sills with a gap. The gap had to be there because there is 100 feet, (+/-), between what was marked as the edge of the marsh. She said she was also worried about the erosion that may happen due to the formation of an embayment behind a naturally occurring gap. To help with this issue Ms. Grimes said they would be installing back bay bumpers, (a small lower line sill). All behind the sills will be filled a sandy fill material and will be planted with alterniflora.

Ms. Grimes said the marsh toe was standard going across any gaps and no fill material will go in the gaps. Mr. Frederick asked if the pier and dock were concern of the board. Mr. Guvernator said it was

not. He also asked if core logs were needed. Ms. Grimes said no, but that it was doable. Mr. Byrd said there could be a need and asked if the project could include them. Ms. Grimes said yes. The board agreed it would be part of the motion.

Mr. Getek asked how the marsh was going to be nourished. Ms. Grimes said water would come in and out through the rip-rap. Mr. Frederick said he noticed a planting plan for the plants. Mr. Taylor asked if there was a hard grade that would keep the alterniflora from growing, and Ms. Grimes responded no.

Mr. Frederick asked how high the stone was in the toe area. Ms. Grimes said they were 2-2 ½ feet, but not more than 12 inches from the existing marsh.

On a motion made by Mr. Byrd and seconded by Mr. Ward, the Wetlands Board voted to issue a permit (valid for (1) year) for Joseph & Kristen Pechacek– VMRC# 2019-1639 to install two 47 feet by 8 feet by 3-3½ feet of quarry stone sills and a 14 feet by 6 feet by 2½ feet back sill. A marsh toe rip rap apron with a total width of 4 feet (plus or minus), and height of 2-2½ feet will be installed. Also, with the addition of core logs extending from the back bay bumper until they are no longer useful. The property is located in Harborton, VA 23389, Tax Map #90-A-14C.

C. Chincoteague Hotel LC– VMRC# 2019 – 1120

3206 Main Street

To install 122 feet of coral rock stone revetment, dredging of an existing canal, and to install 160 feet of low profile sheeting. The property is located on Chincoteague Island, VA 23336, Tax Map #30A5-A-96A.

Chris McCabe, (Coastal Compliance Solutions), appeared before the Wetlands Board and had already been sworn in by Chairman Frederick. Mr. McCabe said this site was previously the home of the Landmark Plaza. There were a few JPA's that had been filled out for the site that were approved, but none of the work was ever constructed.

Justin Miller, (Coastal Compliance Solutions), appeared before the Wetlands Board and was sworn in by Chairman Frederick.

Mr. McCabe said the current application proposed the construction of a series of rental cottages similar to the ones that are currently there. It would involve totally reclaiming the entire site, providing sewer flow that would go up to Sunset Bay Utilities, (farther south), state of the art stormwater management to address stormwater runoff, bulkhead replacement, a beach with a low profile bulkhead, marsh fringe planting, 424 square feet of concrete oyster castles, and canoes/kayaks.

They are also proposing to remove the old dilapidated structure there, to excavate the mud flat out, create a recreational beach area, adding a gazebo, and to provide 1,179 square feet of mitigation. He also mentioned that they removed the old boat that had been on the site for years, and added it in to the mitigation.

Mr. McCabe said the fill in the beach area would come to a slight grade to the coral rock. Which is engineered rock that looks like coral, but is the same a rip-rap. He also said they had received stormwater approval and addressed all Army Corps of Engineers concerns.

Mr. Taylor asked what the grade down to the bulkhead would be. Mr. McCabe said it would be 10:1, (plus or minus), it would not be flat. Mr. Taylor said that would be a steep slope and Mr. McCabe said there would be steps. Mr. Frederick asked if the beach would be treated like a beach. Asking if it would be cleaned up after storms and similar events. Mr. McCabe said yes,

it had to be maintained according to their Corps permit. Mr. Byrd asked if it was spelled out somewhere and Mr. McCabe said yes that they had a maintenance plan.

Mr. Frederick asked what effect cleaning would have dune plants if they were to grow in the area. Mr. McCabe said it would be maintained as a beach.

Mr. Getek mentioned the net restoration of the spartina saying no wetlands were being destroyed and that it was positive. Mr. Frederick said when a permit was approved for this site previously, it was with a stipulation that the boat on site be removed. He added that it had been a long standing requirement and was not sure that it would count as mitigation. Mr. McCabe said that permit was never acted on.

Mr. George Badger, (VMRC), appeared before the Wetlands Board and was sworn in by Chairman Frederick.

Mr. Taylor asked Mr. Badger if he had any problem with the beach going past the existing mean low water. Mr. Badger responded that it was an impact that VMRC would have to look at. Mr. Badger said that the Board's jurisdiction stopped at the high water mark. Mr. Frederick said he remembered, when talking about approving previous applications, that he, (Mr. Badger), expressed concerns about the mudflat area. He then asked Mr. Badger if VMRC had any concerns about the conversion to a sandy bottom. Mr. Badger said VMRC would review the Board's decision.

Mr. Taylor said they, (the board), did not have to approve the beach because it is not in the Board's jurisdiction. A short discussion ensued on the what was in the Board's jurisdiction. Mr. Badger said part of the beach and the outflow of the rip-rap was in the Board's jurisdiction.

Mr. Badger said this was not all a total loss. That it was a change of use.

Mr. Taylor voiced more concerns about the slope and a discussion ensued. Mr. McCabe said that steps could be put in. He also said that nothing could be built in that area. Anything placed would have to be removable, i.e., beach chair, umbrella or table. This would also be long term regulated by the Core that will run forever. Mr. Ward thought that a 15:1 would be better.

Mr. Frederick asked how rigid the 676 square feet of vegetative replacement was and if it could be increased, (the alterniflora). Mr. Taylor said he did not know if it would live. Mr. McCabe said that because of their Corps permit they have to make it grow. Mr. McCabe said as long as it is built at the right elevation he believed it would flourish.

Mr. Miller said that he was most excited about the oyster castles. Mr. Byrd said he did not believe it would grow either, but that it was the applicants job to make sure it would. Mr. Byrd added that the board typically had a 3-5 year monitoring period. Mr. Taylor and Mr. Byrd agreed that more should not be requested unless the applicants wanted to. Mr. McCabe asked if they increased it by 1 foot, which would make it 6 feet wide, would that be good. Mr. Miller said there was a lot going on and the engineer would have to be involved. He said as long as his whole team would agree he would be okay with it. After a short discussion Mr. Miller agreed to the extra foot.

Mr. Fredrick said there was a protest and asked Mr. Deitch would he like to enlighten the board on his concerns.

Mr. Harry Deitch, (adjoining property owner), appeared before the Wetlands Board and was sworn in by Chairman Frederick. Mr. Deitch said the RCP, (re-enforced concrete pipe) and the stone riprap would be on part of his property. Current (town) outfall causes sediment deposits around his dock, and Mr. Deitch would like it to be ran farther out into the channel. He was concerned about the stone and his grandchildren falling and getting hurt. Mr. Taylor said he did not believe the town had any intentions on moving the pipe. Mr. McCabe said they would remove the riprap.

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted to issue a permit (valid for (1) year) for Chincoteague Hotel LC– VMRC# 2019 – 1120 to install 122 feet of coral rook stone revetment, dredging of an existing canal, and to install 160 feet of low profile sheeting with the following conditions:

1. *Sand beach goes 1 foot above mean high water between a 10:1 -15:1 beach slope grade from to the low profile bulkhead*
2. *Spartina plantings, (to increase mitigation), changed from 5 feet wide to 6 feet wide totaling 787 square feet*
3. *Addition of steps going down to beach*
4. *Remove Rip-Rap out fall protection*
5. *Revised drawings & maintenance plan to be submitted with a 3 year monitoring term*

The property is located on Chincoteague Island, VA 23336, Tax Map #30A5-A-96A.to construct a vinyl bulkhead in front of existing rip-rap stone to have boat access. The property is located in the Captain’s Cove subdivision of Greenbackville, VA 23356, Tax Map #5A1-1-1228.

5. OTHER BUSINESS

A. Muller/Best Fill Removal Letter

Engineer was unable to identify any unauthorized fill, because all of it had been successfully removed from the permit area. Their determination letter, which states:

“Based on the soils found and the grade stakes that had been set on site, I found that this site had been excavated as stipulated.”

Mr. Byrd what happens now. Mr. Guvernator said this would go in the file and that he would go out and measure when the project is officially finished and would provide a report on it.

B. Seaview Maintenance Work Update

- County has deemed the site to be back into compliance, and all holds on future permits have been lifted
- Gaps in the sill have been corrected
- Regrading and final planting of the area will occur after the proposed Seaview bulkhead is constructed
- Monitoring period (3 years) will start after planting is complete

C. Seaview Bulkhead Application Status

Revisions to the original permit have moved the proposed project area outside of the jurisdiction of the Wetlands Board, so no permit is needed

D. Proposed Code Changes to Section 102 Article III, Use and Development of Wetlands

Process: Draft being reviewed by County Administrator & County Attorney and sent to VMRC

Revised draft will be sent to Wetlands Board and then to Planning Commission for review

Planning Commission reviews draft and sets up public hearing

Public hearing held, comments addressed, final revisions made

Planning Commission votes & revised draft is then sent to Board of Supervisors

Board of Supervisors votes on revisions

Proposed Revisions:

1. *REMOVE: Definitions & references that pertain to the Back Bay and North Landing River*
2. *ADD: Section to define a process for handling incomplete applications, modeled after DEQ's process*
3. *ADD: Section to define a process for handling an applicant's request to postpone a hearing*
4. *ADD: Section to address amending permits after they have been issued*
5. *ADD: Missing state regulation sections on enforcement (not copied into the Code when first created)*

E. 2018-1776 Permit Extension Request

- Received letter requesting a one-year extension to the referenced Permit, set to expire 12-19-2019
- Board may extend permit expiration date pursuant to Accomack County Code Section 102-315
- County staff recommends extension

On a motion made by Mr. Taylor and seconded by Mr. Ward, the Wetlands Board voted to issue a one-year extension for VMRC# 2018 – 1776

F. Scientific Conference - Savannah, GA – Mr. Getek

Mr. Getek said he in attended a couple environmental chemistry sessions and discovered a nationwide program called Adopt-A-Wetland. Where local citizens go out and act as citizen scientist who monitor and protect the wetlands in their local area. The program is currently in North & South Carolina. Mr. Getek said he would transmit the information to Mr. Frederick and Mr. Guvernator in case they wanted to get more information.

Mr. Frederick asked if they were public wetlands? Mr. Getek said he assumed it was state owned areas.

G. Completion of the Marsh Resilience Summit – Mr. Getek

Mr. Getek said there was info out on what was talked about. He said information on Living Shorelines had been updated and felt that everyone needed to read/review it. He also said he would invite Ms. Shannon Alexander to come speak and give a synopsis. The board members agreed.

6. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, December 19, 2019 at 10:00 a.m. in the Accomack County School Board Conference Room 204, in Accomac, VA.

7. ADJOURNMENT

On a motion made by Mr. Byrd and seconded by Mr. Ward, the Wetlands Board voted to adjourn the meeting.

The meeting was adjourned at 12:09 p.m.

Earl Frederick, Chairman

Chontese Ridley, Environmental Permit Specialist