

ACCOMACK COUNTY WETLANDS MINUTES OF JANUARY 23, 2020

At a meeting of the Accomack County Wetlands Board held on the 19TH day of DECEMBER 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.

1. ELECTION OF 2020 WETLAND BOARD OFFICERS

The Wetlands Board will elect the Chairman and Vice-Chairman for 2020

Mr. Guvernator opened the floor for nominations for Chairman of the Wetlands Board:

Mr. Getek moved, seconded by Mr. Taylor, to nominate Mr. Frederick as Chairman for 2020. No other nominations were made. Mr. Guvernator closed the floor for nominations.

Mr. Guvernator called for a vote and the Wetlands Board voted unanimously to elect Mr. Frederick as Chairman of the Wetlands Board for 2020.

Mr. Frederick opened the floor for nominations for Vice-Chairman of the Wetlands Board:

Mr. Getek moved, seconded by Mr. Byrd, to nominate Mr. Ward as Vice-Chairman for 2020. No other nominations were made. Mr. Frederick closed the floor for nominations.

Mr. Frederick called for a vote and the Wetlands Board voted unanimously to elect Mr. Ward as Vice-Chairman of the Wetlands Board for 2020.

2. ADOPTION OF AGENDA

Mr. Taylor noted a correction that needed to be made. Under "Minutes" it should be December 19th and not December 23rd.

Mr. Getek said if he could speak on the Resilience Funding meeting and would like to discuss it if there was time at the end of the meeting.

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

3. MINUTES

A. December 19, 2019

On a motion made by Mr. Ward and seconded by Mr. Byrd, the Wetlands Board voted to approve the minutes December 19, 2019 meeting.

4. OLD BUSINESS

A. Sue & Randolph Lieberum – VMRC# 2019-1768

Clearwater Way

To install 475 (+/-) linear feet of rip rap stabilization with 280 cubic yards of class III stone over filter fabric. The property is located in Craddockville, VA 23341, Tax Map# 108-1-16.

Chris Guvernator, Environmental Programs, appeared before the Wetlands Board and was sworn in by Chairman Frederick. Mr. Guvernator said that his office received a formal request from the applicant's agent to continue or postpone the application until they work through some historic resource concerns that had been discovered on the property. The applicant's agent added that if they could not resolve those issues that they would pull the application. No time has not been given, but it would be the board's decision.

Mr. Taylor asked what the historical resource issues were and Mr. Guvernator said there were some water front historic resource that had been identified.

Mr. Frederick asked Mr. Guvernator for a recommendation on the continuance allowance. Mr. Guvernator said, if VMRC had no concerns about it, he would recommend two months. Mr. Guvernator said his office would contact the applicant/agent and if they needed it continued after sixty days they would have to put in another request.

Mr. Byrd asked at what point would they have to put in a new application. Mr. Guvernator said six months of inactivity should be enough time that field conditions might have changed, and new drawings would be required. Mr. Guvernator said that he was also proposing a Policy & Procedures manual that would cover these type of things amongst others.

Mr. Taylor asked who was raising the historic resource questions. Mr. Guvernator said it was the Virginia Department of Historical Resources.

On a motion made by Mr. Byrd and seconded by Mr. Getek, the Wetlands Board voted to give a two-month continuance for Sue & Randolph Lieberum – VMRC# 2019-1768 to install 475 (+/-) linear feet of rip rap stabilization with 280 cubic yards of class III stone over filter fabric due to there being no markings/staking or property line designation. The property is located in Craddockville, VA 23341, Tax Map# 108-1-16.

B. Gary & Wendy Heller – VMRC# 2019-1905

34450 Royall Woods Lane

To construct 215 feet of shore stabilization revetment with Geo-textile fabric placed below Class III armor stone. The property is located in the Royall Woods subdivision of Craddockville, VA 23341, Tax Map# 117-11-6.

Mr. Guvernator said a revision had been submitted and that this application no longer needed a permit. Realignment on the west side put the project 95% out of Board's jurisdiction and the small piece that remained was removed.

5. **NEW BUSINESS**

A. Jillian H. Poole – VMRC# 2019-1976

5019 Main Street

To install of 150 feet of rip-rap as a marsh toe protection. The property is located in on Chincoteague Island, VA 23336, Tax Map# 30A7-A-16.

Luke Britton, Luke Britton Marine, appeared before the Wetlands Board and was sworn in by Chairman Frederick. Mr. Frederick said his drawings showed 281 feet of marsh toe protection, but the permit application had 150 feet. Mr. Britton said it should be 281 feet. Mr. Guvernator added that a different drawing, (plan), had 216 feet.

Mr. Frederick asked if the proposed riprap stone would be the same size the neighbors' and Mr. Britton responded yes. Mr. Taylor asked when the neighbor's, (to the North), was put in. Mr. Britton said he believed it was seven years ago by Fisher's Marine. Mr. Getek chimed in to say it was done in 2016.

Mr. Taylor asked if the applicant had their property line clearly marked. Mr. Britton said yes and that she owns all the marsh on the southern side. A short discussion ensued on the property lines. It was concluded that the county property lines were off.

Mr. Guvernator said there would be a problem with property ownership if the separate parcel is not listed from a county records stand point. The permit should include both 30A7-A-16 and 30A7-A-18D.

Mr. Badger added that on the plan view low water is shown channel-ward of the structures, but on the cross section mean low water is shown. Mr. Britton said that line should not been on the drawing. Mr. Badger told Mr. Britton to make this revision when correcting the square footage for the toe protection.

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 Jillian H. Poole – VMRC# 2019-1976 To install of 150 feet of rip-rap as a marsh toe protection with the following corrections:

1. *Change marsh toe protection to 281feet on all application pages that have a different number*
2. *Add tax map# 30A7-A-18D, which is also owned by Ms. Poole, to the permit application*
3. *Clarify mean low water on the cross section*

The property is located in on Chincoteague Island, VA 23336, Tax Map# 30A7-A-16

B. Jason Young – VMRC# 2019-1980

3724 Main Street

To installation of approximately 123 linear feet of Class I and or A1 quarry-stone rip-rap. The property is located in on Chincoteague Island, VA 23336, Tax Map# 30A3-A-27.

Ellen Grimes, Coastal Resource Management, appeared before the Wetlands Board and was sworn in by Chairman Frederick. Ms. Grimes said the applicant wanted to add some rip-rap, fill behind it, and to put in a pier. She said there is a currently a shell ramp on the property that was done in 1943 that would be removed. It would be graded and taken out to the grade of the existing marsh. The applicant also wants to plant in that area which is about 1,000 square feet marsh restoration. Ms. Grimes stated there would be 50 square feet of impacts to vegetative wetlands and requested that it be compensated by the 1,000 square feet of marsh restoration so that the applicant would not owe any money.

Mr. Taylor agreed saying he thought it could be used for mitigation. Mr. Frederick asked how much of the ramp was above mean high water. Ms. Grimes showed him on one of the drawings. Mr. Frederick asked if there were any plants on either side of the shells. Ms. Grimes said there were multiple salt tolerable species there.

Mr. Badger chimed in to say that is the shell area was outside of the Wetlands Board's jurisdiction, then grading that area down would be creation and not a change in environment. Meaning that it removing the shell area, grading and plating would qualify as on-site mitigation. Mr. Badger asked that if the board decided to go in that direction, that they require a planting plan. Ms. Grimes said she would submit one.

Mr. Frederick asked if there were any questions from the audience and Mr. John Ward, (County resident), stood. Mr. John Ward appeared before the Wetlands Board and was sworn in by Chairman Frederick. He asked where the mean high water line came from. Mr. Guvernator said there were specific definitions for low and mean high water in the state regulations based off of 19 years of historic data. Mr. Guvernator asked Mr. Ward to please address his comments to the board chair. The board chair would ask the agent or county staff to respond if needed.

Mr. Frederick then gave Mr. Ward an explanation on how the mean low and high water was found for Mr. John Ward.

Mr. Ward asked what the height of the fill would be. Ms. Grimes said 16-24 inches behind the rip-rap. Mr. Taylor asked if the crap-rap would be removed and Ms. Grimes said it could be used as underlayment material.

Mr. Frederick asked Mr. Badger if he was happy with the placement of the toe in regards to what was growing uphill. Mr. Badger said the board would need to decide on. He added that the board should be looking at whether the stone toe needed to be in the board's jurisdiction. Ms. Grimes said there was an elevation survey done on the lot and most of it was in the board's jurisdiction. She pointed to the area on the drawings, and Mr. Guvernator said they needed to be revised to show that, ($\frac{1}{2}$ x tidal range in a vegetative area). Mr. Badger agreed and said the square footage that would be lost needed to be determined.

Mr. Badger added that there was nothing to protect there and questioned why the structure had to be the board's jurisdiction. Ms. Grimes said this was a popular thing on Chincoteague and did not think of it as an unusual request.

After a short discussion Mr. Frederick asked Ms. Grimes if she wanted more time to work on the project. Ms. Grimes said no and asked if the applicants father could come explain to the

Board what his son wanted to do. Mr. Frederick asked if she would like to take a five minute to talk with Mr. Young, Sr., applicants father, first. Ms. Grimes responded yes.

On a motion made by Mr. Ward and seconded by Mr. Taylor, the Wetlands Board voted to take a five-minute recess.

MEETING RECONVENES AT 11:10 AM

George Young, (applicant's father), appeared before the Wetlands Board and was sworn in by Chairman Frederick. He stated when his son first purchased the property it was in disarray. They have since then removed a lot of the debris, but there are still some there. He added that the applicant wanted to create a safe environment for his seven-year-old son to fish, crab, and to eventually have a boat of his own. The area does not look appealing right now and wants to clean it up. Mr. Young, Sr. also said that his son has no plans on ever building on the lot.

Mr. Frederick said everyone was on board until they were told about the elevation. Mr. Young, Sr. said that he cuts the grass in that area every two weeks, and Mr. Frederick told him that he was allowed to. However, the grasses in that area are not supposed to be buried and the current plan calls for it to be covered.

Ms. Grimes proposed a request to fill with the structure, (in the board jurisdiction), still restore the shell ramp to lower marsh elevations, and to only place the fill up to the shelf break and backwards.

Mr. Frederick asked for the width of the property. Ms. Grimes said 90 feet, 70 feet with the side wall. From that Mr. Frederick said the impact, from where the proposed rock would go, would be 350 square feet. A short discussion ensued on what was the best for the property.

Mr. Badger said there still quite a few things the board needed to look. Assumptions were being made without having any square footages worked up on where the jurisdictional boundaries were or how much fill would really be placed. With living shorelines being the preferred method, and letting the shore/marsh grasses continue up as sea level rises, by putting this stone, and fill behind it, that process stops in the Wetlands Board's jurisdiction. Mr. Badger said they also needed to understand how many square feet is being filled of vegetative wetlands are jurisdictional wetlands.

Mr. Frederick said the ideal solution would be a structure out of the board's jurisdiction or close to the edge and a grading of the entire area to create a living shoreline. Mr. Getek suggested pulling it back to the 1.5 mark. Mr. Taylor said if that were done, what would be the need to doing the project.

There was more discussion on whether the project was needed and whether or not it needed to be in the board's jurisdiction. Mr. Badger bought back up that there were still no sure numbers to go on.

Ms. Grimes requested a continuance to confer with her client.

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted to give a one-month continuance for Jason Young – VMRC# 2019-1980 to install approximately 123 linear feet of Class I and or A1 quarry-stone rip-rap. The property is

located in on Chincoteague Island, VA 23336, Tax Map# 30A3-A-27.

6. OTHER BUSINESS

A. Eric Tatman – VMRC# 2018-1776

Mr. Governator recommended a vote to transfer the permit name. The property had changed ownership, and the new owner wants the permit in their name. Mr. Governator said he was not sure how VMRC handles these cases, and Mr. Badger said they handle them administratively.

No motion needed to be made.

B. Procedure for Handling Public Comments

Mr. Governator said this was something that Mr. Getek bought up. He then explained how the Board of Supervisors had a specific way of handling public comments. If anyone wants to speak they sign up before the meeting and there is a seven-point bullet list read on how their comments can be brought in. There is typically no discussion on the comments. Mr. Governator said the Board can assign them to staff or deem them not appropriate in the Board's jurisdiction.

Mr. Governator said he spoke with the County Attorney, and she suggest that they come up with a board document that has policy and procedures. Mr. Governator said he would come up with a draft to hand out at the next meeting for the board members to start reading/reviewing.

C. Seaview Street Improvements – VMRC# 2015-0180

Mr. John Ward wanted to bring to the board's attention that the plants were dying. Mr. Frederick asked Mr. Governator to come before the board. Mr. Governator said the Captain's Cove Association recently performed maintenance there and did it inappropriately. He said he went on site and spoke with them.

Mr. Getek chimed in to say there were only two things planned, a rock sill with planting behind it landward. Mr. Governator said he would provide a letter to the board and to Mr. John Ward on how his office directed the applicant to fix the maintenance to come back into compliance with their permit. They have to fix the planting and they have a three-year window to make sure the plants are established. The original three-year period was extended two months prior.

7. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, February 27, 2020 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac, VA.

8. ADJOURNMENT

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

The meeting was adjourned at 12:10 p.m.

Earl Frederick, Chairman

Chontese Ridley, Environmental Permit Specialist