

ACCOMACK COUNTY WETLANDS MINUTES OF SEPTEMBER 24, 2020

At a meeting of the Accomack County Wetlands Board held on the 24TH day of September 24, 2020 in the Accomack County Administration Building Board Chambers, Room #104, in Accomac, Virginia.

1. CALL TO ORDER

1.01 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

Ms. Allison Lay, Virginia Marine Resources Commission (VMRC)

1.02 DETERMINATION OF A QUORUM

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

2. ADOPTION OF AGENDA

Mr. Fredrick said Ms. Grimes would like a moment to introduce to the Board.

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

[Ms. Grimes stood to introduce Ms. Katie Spady, who previously worked for Northampton County. Ms. Grimes said she would be doing applications, site visits, taking pictures and things of that nature. Ms. Spady is a graduate of UVA and currently works for Cherrystone Aquafarms. Ms. Grimes added that Ms. Spady would be presenting applications before the board in the future.]

3. MINUTES

3.01 Draft September 2020 Minutes

Mr. Getek had serval items that he wanted to go over. A discussion ensued on what to do when a person makes a statement for/on the record that is not worded or said correctly.

Mr. Chris Guvernator, Environmental Programs, appeared before the Wetlands Board was sworn in by Chairman Frederick. Mr. Guvernator said he believe the minutes were produced as a transcription of what was actually said on the tape. Mr. Guvernator said it could be marked with a quotation and Mr. Getek agreed that was a good idea. Mr. Byrd said he would just leave it as is. Mr. Getek said that he was retracting his suggestion and go along with what Mr. Byrd recommended.

Mr. Getek pointed out a statement by Ms. Allison on page two stating "...mean high low tide was landward..." where he suggested striking out the word "high." Ms. Lay said thought it should have been "mean high and low tide.

On a motion made by Mr. Byrd and seconded by Mr. Getek, the Wetlands Board voted to approve the February minutes, as corrected.

4. OLD BUSINESS

4.01 Bernard Russell, Jr. – VMRC# 2020-1316

15290 Russell Drive

Return wall extension and rubble removal

Mr. Frederick ask Mr. Guvernator to come introduce the application. Mr. Guvernator said it was approximately a 30 foot extension of the existing bulkhead and return wall extension.

Mr. Ellen Grimes, (Coastal Resource Management, LLC) appeared before the Wetlands Board and was sworn in by Chairman Frederick. Ms. Grimes said Mr. Russell, (applicant), wanted to add to the existing 17 foot bulkhead by bringing 30 feet of a bulkhead and return wall back into what is existing as the rest of the rubble shoreline.

Ms. Grimes added that there was a pine tree that could be saved. Mr. Russell wants to take out the rubble that is there and add fill. The fill would not be any deeper than 12 inches. They want to make the pine tree roots feel better and to plant around it.

Ms. Grimes also informed the board that the section labeled "backfill area" was already existing.

Ms. Grimes said they would be putting in jet flow drain plugs so that when the water does come through it will allow the marsh to be fed with salt water.

**MR. FREDERICK OPENED UP THE FLOOR FOR PUBLIC COMMENT
PUBLIC COMMENT PERIOD CLOSED**

Mr. Ward said in the photo there was a red line heading out to the creek and asked if it was the poles. Ms. Grimes said she would need to be supplied with the photo because it was not hers. Mr. Guvernator said it was the property line.

Mr. Frederick asked how many square feet, approximately, would be vegetated. Ms. Grimes replied 150 square feet. Mr. Frederick then said that this was not the place for any consideration for a living shore line. Mr. Byrd said a Living Shoreline would not last one high water and all that was seen was vegetated when he was a kid is all gone. He added that the past owners had lost property as well as the current owner and if they keep the tree it would be a modern miracle. Mr. Byrd added that he did not see any reason for them not to let him, (the applicant), try to start putting it back.

Mr. Getek said with putting plants underneath the pine tree the shade may not effectively keep it growing and asked Ms. Grimes was there a plan to monitor it for a year or two. Ms. Grimes said she had no plans to do that, but that she could add it. She said she would also suggest to the applicant that he limb the tree up a little bit to allow some of the sun to come in.

Mr. Frederick mentioned that the drawings show the jet filters below grade and asked if that was typical. He thought they were above grade in Captain's Cove. Ms. Grimes said she put them there so that the water would drain and not pond back there.

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 Russell – VMRC# 2020-1316 for bulkhead and return wall extension with the following corrections:

- 1. Planting plan with monitoring for 3 years*

The property is located in the East Point subdivision of Onancock, VA 23417, Tax Map# 83B-A-1

5. NEW BUSINESS

6. OTHER BUSINESS

6.01 Complete Application Process

Mr. Governator appeared before the Wetlands Board stating a list has been created of the six or seven most important things that keep reoccurring. A letter was created a couple weeks ago and sent out to consultants, agents, contractors, engineers, and the environmental scientist that typically have applications in front of the board. This was a standard letter stating that we understand that these are typically some of the things that are missing from applications. Mr. Governator said he was putting them on notice to let them know if any of those things are missing the application would be deemed incomplete and their JPA would not come before the board. The 60 day clock to hear it would restart.

The bottom included the new mandated 2020 Living Shoreline considerations being the primary choice, and technical information on why it wouldn't apply to a peculiar project if required in the application.

This can be found on the county's website on the Wetlands Board page and will be sent out every time an application is incomplete.

A discussion ensued.

6.02 Enforcement Process

Mr. Governator said he was going summarize the new enforcement section of the code. It was still being reviewed by the new county attorney, but he wanted to bring it to the board's attention. Each board member was also given the form that's being proposed to use if his staff was called on by the board to investigate.

The enforcement process has a workflow that stems directly from what the Virginia Code says. Mr. Governator said it was at seven steps right now, but still being reviewed to make sure that it works right. The Board Chairman selects an enforcement officer, (usually a county staff member), and directs them to do something. If the enforcement office comes back with a notice to comply with the permit or county code section, then the board chair serves notice to the permittee or the property owner that describes what's wrong or what the board wants them to do to come back into compliance.

Then enforcement office will follow up to make sure that it has been done within the time limit. If it hasn't that is the point when it becomes a violation.

Mr. Frederick asked Mr. Governator if he, (as the enforcement officer), comes back and reports that it is indeed a violation should it go before the board rather than him making the decision to pursue it. Mr. Governator said he thought that it should.

From there the sworn complaint is created by the enforcement officer and brought to the board. The board can issue an order to stop work or extend the measures to correct the action. If they do not want to do it, it would go to court.

A discussion ensued.

Conversation switched to the proposed investigation form. It would be used by the enforcement officer. It is what he would do if he came back with a sworn complaint. He would fill that out and bring it back to the board. This is what they would use to act on the notice of violation.

6.03 VMRC Announcement of review of JPA 2020-0808 & 2020-1160

When the board approves a permit there is a 10 day waiting period with the possibility of a review by VMRC or a petition by adjacent property owners. This is to make sure everyone has had enough time to have their final say before the permit can actually be presented to the applicant.

During the review period for both Grand Bay Properties, LLC and Robert Hetzell permits, VMRC notified us, (Mr. Frederick & the County). VMRC was taking it to their commission for a formal review. Mr. Guvernator said there was a portion of the state code that addresses that and he gave each board member one. Pages 12 and 13 describes that VMRC has the option to review and brings the board's decision before the commission to formally review.

Mr. Guvernator went over the pages explaining what could happen during the hearings. He then told everyone present what time the meeting would be starting and how to listen in.

A discussion ensued.

7. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, October 22, 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. Byrd and seconded by Mr. Getek, the Wetlands Board voted to adjourn the meeting.

The meeting was adjourned at 11:41 p.m.

Earl Frederick, Chairman

Chontese Ridley, Environmental Permit Specialist