

ACCOMACK COUNTY WETLANDS MINUTES OF DECEMBER 16, 2021

At a meeting of the Accomack County Wetlands Board held on the 16TH day of DECEMBER 2021 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. Gene Wayne Taylor
Mr. T. Lee Byrd
Mr. Timothy Getek

Others Present:

Mr. G. Christian Guvernator IV, PE, Director Environmental Programs
Ms. Chontese Ridley, Environmental Programs Permit Specialist
Mr. Benjamin Nettleton, Virginia Marine Resources Commission (VMRC)
Mrs. Beth Nunnally, Environmental Planner II

DETERMINATION OF A QUORUM

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

1. ADOPTION OF AGENDA

Mr. Guvernator said a motion should be made to strike the VMRC presentation from the agenda. Mr. Frederick said they would be striking the VMRC Hearing listed under "Other Business." He said Mr. Owen, (VMRC), was not there.

Mr. Frederick asked about the Woodby project next.

Mr. Chris Guvernator, (Environmental Programs), appeared before the Wetlands Board and was sworn in by Chairman Frederick.

Mr. Guvernator stated that the Woodby application was still on the agenda, and that they, (his staff), was going to explain the No Permit Needed status. He added that it should come off the agenda, but he would like a chance to explain it.

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

2. MINUTES

A. August 26, 2021

On a motion made by Mr. Getek and seconded by Mr. Ward, the Wetlands Board voted to approve the minutes with the corrections.

3. NEW BUSINESS

A. Restoration Hearing

Mr. Guvernator said associated with the emergency permit process there are state regulations that define the steps that an applicant can take to come forward for an emergency project. This would fast track them to getting an approval to repair something that was damaged.

Mr. Guvernator said Mr. Frederick indicated that in the past the director of Building Planning & Zoning made decisions on their own on the maintenance of bulkheads and other structures. From there the director would bring it to the board and let the board know what he/she said/decided, but that was outside of the JPA process.

When the emergency permit process was reviewed with VMRC he thought he should bring them to the board first, because of the way the process is outlined in the state regulations

Emergency Permits (4VAC20-345-10 et.seq.)

This regulatory section addresses applications for a General Wetlands Permit to address catastrophic erosional situations which are attributed to a specific storm event or natural calamity.

This is an expedited process for issuance of a general wetlands permit to allow applicants to stabilize non-vegetated shoreline during emergency situations following a determination that there is a threat to public or private property or to the health and safety of the public.

Definitions:

“Emergency”: Significant man-made structure is in clear and imminent danger from continued erosion or storm damage due to severe wave action or storm surge and the existing condition is a direct result of catastrophic erosion or other rapid or unusual loss of land attributable to a specific storm event or natural calamity.

“Structure”: Man-made permanent construction in or on the property (e.g. dwellings, garages, commercial buildings or septic systems).

The previous structure must have been intact and serviceable prior to the storm event.

Determination must be made that failure to act in an expeditious manner will threaten either the applicant’s property or adjoining properties, or has the potential to adversely impact the public health, safety or welfare. In general, this will require that a dwelling or some other structure be located within 50 feet of the mean high water shoreline.

Permit Issuance upon a finding by the local Wetlands Board that:

1. An emergency exists and vegetated wetlands are not involved
2. Environmental impacts are minimal, and fall below an average of one square foot per running foot of shoreline
3. Authorized activities have minimal impact on APOs
4. Proposed structure and placement meet standard regulatory guidelines and would likely be authorized or approved by other agencies
5. Proposed stabilization, materials & encroachment sought are the minimum necessary

VMRC will review decision within five (5) days. If upheld, the permit is valid for 90 days.

Mr. Guvernator said he received three applications for emergency permits related to the October 29th high tide event and November 2nd or 3rd storm event.

Mr. Frederick ask how does a month long process attend to an emergency.

Mr. Worrell said that this was rarely ever used, but that it did exist. (In reference to the VMRC Emergency Permits Regulations) Mr. Worrell said in speaking to Mr. Nettleton that he was not aware of it being put on the agenda, and it would have been helpful for VMRC to review it with staff first.

Mr. Worrell said there were a lot of steps to go through, but that he would only clarify one of the steps. He also added that the regulations were 25 years old. Mr. Worrell said the board chairman or vice chairman could make the decision solely, but VMRC would have no problem if they decided to make it a board decision.

Mr. Worrell said an application needed to be filed, site a specific storm event, there has to be vegetated wetlands impacted, whatever the structure was had to be serviceable and in good shape prior to the event, must specifically identify the date of the event, and the request has be made within 30 days. He added this did not apply to beach areas. The VMRC staff will then look at it and make a decision.

Mr. Frederick asked, considering how much shoreline Accomack County has, how the Accomack County staff could assess the standards of all the structures that might have been effected by an emergency. How would they be able to go to a site and tell a structure was clearly a viable structure before the storm? Mr. Worrell said he would hope all staff would have the experience expected of them to go out and say a structure looked like it was in good shape before the storm event. He said that is what VMRC would expect.

Mr. Worrell said was just a quicker version of the joint permit application and hearing process. It was specifically designed to allow repairs from significant storm events.

Mr. Byrd asked Mr. Worrell if he agreed that 30 days was a long time if you have a disaster. Mr. Worrell said 30 days was the max. He said an applicant or agent could notify staff/board the next day. 30 days was just the limit. A person has up to 30 days after an event to report. If everyone agrees a person could have a permit in 10-15 days after submittal with no hearing.

Mr. Raymond Britton, Jr, BIC, INC, appeared before the Wetlands Board and sworn in by Chairman Frederick. Mr. Britton went on to discuss how quickly he was able to get emergency permits in the past and how the process went.

A discussion ensued.

Mr. Worrell said to clarify, if you have a structure that fails in some particular aspect where you can repair without further impacting wetlands resources, VMRC is quite liberal with allowing what they call maintenance and repair in the existing footprint. He said this type of regulation was to allow further wetlands impacts to occur as part of your repairs and maintenance.

Vegetated wetlands impacts have to come before the board whether or not they are emergency explained Mr. Worrell. He also added that the chairman/board did not have to make their decision, (emergency/non-emergency), based on what staff tells them.

A discussion ensued.

B. Phil King VMRC# 2021-2069

Chincoteague Island, VA

Proposed replacement of 180 feet of existing bulkhead 2 feet channel ward of the existing failed bulkhead with a 15-20 feet return wall

Mr. Guvernator gave a quick summary of the project. He said staff had been on site multiple times and with VMRC and the applicant's agent. A letter from VIMS had also been received, which Mr. Guvernator said he would be happy to read into the record.

Mr. Frederick asked Mr. Guvernator to read the letter after he finished his presentation.

Mr. Guvernator pointed out there had been a recently constructed floating dock on the out portion of the property. He said he was in contact with the Town of Chincoteague to determine if a building permit was applied for or if one was needed. Mr. Guvernator also said he was adhering to the VIMS recommendation as much as possible in revising the application to minimize impacts.

Mr. Frederick asked what the VIMS recommendation was. Mr. Guvernator it was to do a rock revetment and to move it back as far as possible to minimize impacts in the board's jurisdiction. No sketch was supplied. Mr. Frederick said the letter no longer needed to be read into the record.

Mr. Chuck Ward appeared before the Wetlands Board on behalf of the applicant.

Mr. C. Ward said they had a large get together on the site November 9, 2021, (VMRC, county staff & the contractors). He said there is an existing bulkhead on the site. The composition of it had not been determined but it was not material that one would want to tear apart.

He said they are proposing to replace the failed bulkhead. They also want to go out two feet channelward to prevent having to remove whatever material the current bulkhead is made out of. It was put in around the 1950s and during those times the materials were not known to be the safest. Mr. C. Ward said the material would be very brittle.

Mr. C. Ward said when VMRC and VIMS came out they found 100 +/- square feet of impacts to vegetated wetlands. He then explained why he had not seen them before, but said he was not going to argue or say the number was incorrect. Mr. C. Ward then, using photos, showed the location of the proposed bulkhead and return wall. He said his applicant would love to be able to afford to run a bulkhead along the length of the property, but finances, approvals/permits, and state requirements considered it was not possible. It was determined that the new bulkhead would be installed roughly along the line of the existing bulkhead that has gone under water, follow the line of the existing rubble, and turn back into the property so not to disturb any of the salt marsh grasses growing in that area.

Mr. C. Ward said the goal was for the property owner to secure and stabilize the property from a large amount of fetch.

CHAIRMAN FREDERICK OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if there was anyone who wanted to comment on application 2021-2069.

No one made a request to communicate.

CHAIRMAN FREDERICK CLOSED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if any of the board members had any questions.

Mr. Getek asked if the marsh grasses ever reached out to the point. Mr. C. Ward said he was not sure, but did not believe so.

Mr. Taylor said believed it would be a hard sale for the additional bulkhead and the rocks. Mr. C. Ward said they did not know how deep the rubble was or how far they would have to dig to get to something solid in order to build a new revetment. Digging it up would be very expensive.

Mr. Frederick asked about erosion in the upland area presently with the bulkhead in its current condition, because he did not see much of an effect.

Mr. Philip King, (applicant), appeared before the Wetlands Board and sworn in by Chairman Frederick.

Mr. King said he had seen erosion. He said walking around you could pot holes and sink holes that developed over time.

A discussion ensued on what the current bulkhead could have been constructed of and there was mention that the materials may contain asbestos.

Mr. Guvernator said that staff had been out several times and there was no visible plumes outside or seaward of the rubble.

Mr. Frederick said he wondered if a big project was needed here. He thought dressing up what was already there would be enough. The only thing he could see that had failed was the old bulkhead.

It was said that a boat could not be tied up to what was currently there. Mr. Guvernator chimed in to say that a dock had been put in that could be used. He said it had been put in since the application had been received.

Mr. Getek asked Mr. Frederick if he was saying not to do anything at all. Mr. Frederick said one of the remedies they had seen in the past, when repairing a revetment like the current one, was to maybe use the concrete that is there as core material.

Mr. Matthews, (Project Contractor), asked if the bulkhead was in violation of anything. He asked if it has failed why he could not just put it back where it was.

Mr. C. Ward spoke on a report that he submitted on November 14, 2021. One of the things he said he analyzed was the anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment. In the report Mr. C. Ward stated that there was no private detriment, because it benefits the private property owner. He believed that if the cost doubled for the extra 80 feet of new bulkhead that is proposed by ripping it out and putting in a rock revetment, there would be a private detriment.

A discussion ensued.

Mr. Taylor asked how hard it would be to have the return wall put at the end of the bulkhead. Mr. Matthews said there was a lot of wave action in that area. Mr. Taylor said he would be willing to approve the bulkhead to that point and adding on to the crap rap with more suitable stone or quarry stone instead of a bulkhead.

Mr. Matthews what he if pulled the bulkhead up or in the middle of the rubble. Mr. Taylor said it would be out of the board's jurisdiction. After explaining this configuration it was determined that the bulkhead would still be in the board's jurisdiction.

Mr. Governator said if vegetative wetlands were there to measure 1 ½ x the tide range. If non-vegetative, use 1 x the tide range. Mr. Governator added that if they could prove in their JPA that they are behind 1 x the tide range on the non-vegetated side and 1 ½ on the vegetated side, no permit would be needed.

Mr. Matthew's asked Mr. King if he would be happy with that and Mr. King said yes, if that was all they could get.

Mr. Governator said his staff would propose a consideration to revise the permit application to move as much, if not all, of the project out of the board's jurisdiction. Mr. C. Ward said in order to get out of the tide range they would have to go inside the existing bulkhead. He said they would also have to get rid of what was out in front. Mr. Matthews said without it being removed a boat could not be docked there. Mr. Governator said it was already being done. Mr. Matthews in response said that was only temporary until the bulkhead gets fixed.

Mr. Governator's recommendation was for the applicant to consider a modification to the application or move for a vote. Mr. Matthews said he wanted to move for a vote.

Mr. Frederick asked the board members if any of them would like to take a 5 minute recess.

On a motion made by Mr. Getek and seconded by Mr. Ward, the Wetlands Board voted to take a 5 minute recess.

Meeting reconvened at 12:10 PM

Mr. C. Ward said the request still stood to replace the existing bulkhead that's there 2 feet out due to the fear of pulling out asbestos. That would cause a public health and safety issue for Mr. Matthews and his crew. He said there would be a lot involved if they were to pull it back.

Mr. C. Ward also requested that the plans could be revised to show that the new bulkhead they propose could be pulled back out of the wetlands board's jurisdiction. Mr. Frederick said no one

suggested that the asbestos be pulled out. Mr. C. Ward said if they build the new bulkhead behind the old one, eventually the poles holding up the asbestos would collapse causing navigational issues.

Mr. C. Ward said they cover the current bulkhead and not have to deal with any asbestos, and Mr. Guvernator asked how that would be done. He asked if they would be going higher and Mr. Matthews responded yes. Mr. C. Ward said as long as it was at least a few inches higher it, (the dangerous material), could be covered and encapsulated with backfill.

Mr. Frederick asked Mr. Worrell if he had any experience working with hazardous materials. Mr. Worrell said this was the first case he had seen. He added that he was not positive that anyone knew 100% positive if there was asbestos or not.

Mr. Worrell said the bottom line was that the board had jurisdiction between low and high, and if there was vegetation present they have jurisdiction at time and a ½. He also told the board to be very careful on what they considered approving in those areas.

A discussion ensued.

Mr. Guvernator said if the new bulkhead were to go 2 feet channelward with backfill behind it, there would be a loss of wetlands. The JPA application had "0" listed loss of non-vegetated wetlands. Mr. Taylor said that had to be changed.

Mr. C. Ward said he needed some clarification on the non-vegetated wetlands behind the bulkhead. Mr. Guvernator informed him that state regulations define the board's jurisdiction. They also put the board in charge of no net loss. Mr. Guvernator said it was a non-vegetated tidal wetland.

Mr. Matthews said he met on site with Mr. Guvernator six months prior and also with Mr. Nettleton. He said both told him that the site looked great and that he would not have any trouble putting in a bulkhead there. Mr. Matthews said now everything had changed. He said that it was a simple decision: Put the bulkhead 2 feet out, that they would pay the fee for the non-vegetated wetlands, they would get it surveyed, and do whatever else it takes to get the bulkhead in place and move on.

Brad Kelley, (Adjacent Property Owner), appeared before the Wetlands Board and sworn in by Chairman Frederick. Mr. Kelley said that he was for the bulkhead. He said the current bulkhead was a slow motion disaster. Pieces are falling into the water making it hard to navigate, and at low tide he cannot get his boat in or out. Doing nothing is allowing sediment into the channel. He said it was also a property value issue for him and horrible to look at.

Mr. Frederick said one of the things that staff needs to verify, (pertaining to the drawings submitted), is that he, (Mr. C. Ward), has complied with his proposal, is that there be measurements made from a known location, (i.e., corner of the house to the end of the bulkhead). There should be a measurement so that it can be checked after the fact. Mr. Frederick asked Mr. C. Ward to please add measurements to the corners of his drawings in the future.

Mr. Getek asked Mr. C. Ward to confirm that his determination that a living shoreline would not work there due to navigational and fetch issues. Mr. C. Ward said yes.

On a motion made by Mr. Taylor and seconded by Mr. Ward, the Wetlands Board voted to issue a permit (valid for (1) year) for Phil King VMRC# 2021-2069, proposed replacement of 180 feet of existing bulkhead 2 feet channel ward of the existing failed bulkhead with a 15-20 feet return wall with the following conditions:

- 1. Placement above 1 ½ x MLW mark to move out the Wetlands Board's Jurisdiction*
- 2. Revise application drawings and non-vegetated wetlands square footage*
- 3. Pay for 10 square feet of impacts to vegetated wetlands*
- 4. Asbestos to be covered and avoided during construction*

The property is located on Chincoteague Island, VA 23336, tax map#(s) 31-A-34.

C. Wayne Maddox, ET AL VMRC# 2021-2073

Chincoteague Island, VA

Proposed replacement of 390 feet of existing, failing bulkhead with a new vinyl bulkhead.

Mr. Guvernator gave a quick summary of the project. He said that he and his staff had been to the project site on several occasions. The November 15, 2021 VIMS letter was also associated with this project. Mr. Guvernator said he would usually agree with VIMS, but in this situation, especially in the back corner, there are a whole lot of unique features. There is wave action coming in down the bulkhead into the manmade area and water leaving the town on high rain events. Mr. Guvernator said staff's recommendation was more along what the applicant had submitted.

Mr. Frederick said he remembered seeing an estimate of 929 square feet of impacts to vegetated wetlands, and asked when that was from. Ms. Nunnally, Mr. Guvernator, and Mr. C. Ward said it was from November 9th. This was after the revision.

Mr. Taylor asked what did staff think and Mr. Guvernator said they concurred with VIMS on the 929 square feet.

Mr. Charles (Chuck) Ward appeared before the Wetlands Board on behalf of the applicant.

Mr. C. Ward said the original intent of this project also included a new bulkhead. However, it was discovered that the Town was also interested in the area, and might do something there down the line.

Mr. C. Ward said the proposal in the manmade harbor is to try limiting the amount of erosion, cover up the asbestos bulkhead with a new bulkhead, and put in a return wall to secure the existing boat ramp.

CHAIRMAN FREDERICK OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if there was anyone who wanted to comment on application 2021-2073.

No one made a request to communicate.

CHAIRMAN FREDERICK CLOSED THE FLOOR TO PUBLIC COMMENT

Mr. Taylor asked if any dredging was involved. Mr. C. Ward said that he could not affirm or deny that there would not be interest in the future for it, but there would be none involved with this project.

Mr. Frederick asked Mr. C. Ward if he addressed anything about a Living Shoreline. Mr. C. Ward said in this particular case, a Living Shoreline was not considered due to the amount of boat traffic. The channel is very narrow and there is also some wave action. A Living Shoreline was considered, but was not the preferred alternative.

Mr. Guvernator added that there was a significant amount of freshwater influx during storm events and it was not just typical flow that a Living Shoreline could handle. He said it looked like it was a pile of water.

Mr. Frederick asked if the area of 929 square feet of impacts be pointed out. Ms. Nunnally found the area and pointed it out to the board members.

Mr. C. Ward and the contractor did not agree with that number. Mr. C. Ward thought it should have been less.

Mr. Guvernator said nothing was listed in the application for impacts to non-vegetated wetlands, but there was clearly tidal influence behind the bulkhead.

Travis Thornton, (estate representative), appeared before the Wetlands Board and sworn in by Chairman Frederick.

Mr. Thornton wanted to speak on the flags that were put out by VIMS and how they were able to come up with the 929 square feet of impacts.

A discussion ensued.

Mr. Guvernator said if the applicant wanted to put their own flags out they could and then his staff would verify them. Mr. C. Ward added that he seen the VIMS representative having a hard time determining where the end/edge was.

Mr. C. Ward said the email from Mr. Ben Nettleton suggest that VMRC & VIMS estimated approximately 929 square feet of vegetated wetlands on the Maddox property and 10 square feet of vegetated wetlands on the King property.

Mr. Guvernator said staff recommended that the applicant revisit the information in the application and verify that information. He also said they would be glad to meet in the field. Mr. Guvernator added that 0 was listed was both in the application.

Mr. Ward, (vice chairman), questioned the proposed two feet channelward due to the channel being so narrow. Mr. Matthews said he was going to take as less as he could.

Mr. Getek asked if they were going to vote on the permit and vegetated wetlands to be determined. Mr. Taylor said the applicant was going to revise the application. Mr. Guvernator chimed in to tell the board they would have to ask the applicant that question. If a motion was made now, without refutable information, they would have to go with the VIMS number due to it being the only number they had.

Mr. Frederick asked Mr. Guvernator if he was suggesting a continuance. Mr. Guvernator said yes until the application was deemed complete.

Mr. C. Ward asked if the board could make a motion saying that the amount of vegetated wetlands present on site be agreed to by Mr. Guvernator's staff. Mr. Guvernator said he was not comfortable with that.

Mr. Worrell chimed into say that VIMS is the state's scientific advisor for all tidal wetlands impacts, identification, and processes that the County Wetlands Board reviews. If staff or anyone else is going to review or refute the VIMS numbers, it needed to be handled before the board. Mr. Worrell said he was not discounting staff's ability, but thought it was very uncomfortable for all parties involved to discount what VIMS has said is on site. Mr. Worrell said they should reach out to VIMS again.

Mr. Guvernator said as of a couple of years ago staff is no longer accepting the responsibility to negotiate the amount of mitigation after permitting.

Mr. Thornton said that he was not comfortable with paying \$11,000.00 extra. The board members asked Mr. Thornton he wanted to table for one month and have VIMS revisit. Mr. Ward, (vice chairman), asked if VIMS would be able to get in done in four weeks.

Mr. Worrell explained, speaking for VMRC, that he was not saying that VIMS would come back out. He said VIMS already gave a number, but they (agent/applicant) could ask them to come. He said their main issue was that the application had no number when it came in.

Mr. Byrd asked Mr. C. Ward if they were willing to accept that responsibility. Table it for one month and see if they can get VIMS to come back out to measure. Mr. C. Ward responded yes.

Mr. Byrd said he wanted to ask Mr. Kelly, (APO), something. He said there was a narrow channel going back to Mr. Kelly's property, and asked him if he would have an issue with the bulkhead going out 2 feet channelward. Mr. Kelly said if they could keep it closer than 2 feet that would be ideal, but he could live with the two.

Mr. Guvernator asked if there could be a motion to continue to until information on whether or not VIMS could come back out was available or until VIMS could comment.

A discussion ensued.

Mr. Thornton asked if they could have five minutes to discuss the fee.

On a motion made by Mr. Getek and seconded by Mr. Byrd, the Wetlands Board voted to take a 5 minute recess.

Meeting reconvened at 1:17 PM

Mr. C. Ward thanked the board for letting them have the recess. After speaking with the applicants/property owners they agreed to go with the VIMS number for the vegetated wetlands.

On a motion made by Mr. Taylor and seconded by Mr. Byrd, the Wetlands Board voted to issue a permit (valid for (1) year) for Wayne Maddox, ET AL VMRC# 2021-2073, proposed replacement of 390 feet of existing, failing bulkhead with a new vinyl bulkhead with the following conditions:

- 1. Revise application to show 929 square feet of impacts not 0***

2. *Revise application drawings and non-vegetated wetlands number*
3. *Pay for 929 square feet of impacts to vegetated wetlands*

The property is located on Chincoteague Island, VA 23336, tax map#(s) 31-4-4A.

D. James & Diane Hess VMRC# 2021-2115

Greenbackville, VA

Proposed replacement of the failing 70 feet wooden bulkhead with a new vinyl bulkhead 2 feet channelward of the existing

Mr. Guvernator gave a quick summary of the project. He said his staffed visited the site and that there was no VIMS report. Staff's recommendation was to replace the bulkhead in the same location as existing, and not two feet out.

Mr. Charles (Chuck) Ward appeared before the Wetlands Board on behalf of the applicant.

Mr. C. Ward said the adjacent bulkhead to the east had been put in two feet channelward. The one on the other side line up with the current bulkhead, but would most likely be replaced soon. The property owners have received a letter from Captain's Cove HOA informing them that they have to replace their bulkhead. There is a requirement within the HOA that bulkheaded lots remain bulkheaded.

CHAIRMAN FREDERICK OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Frederick asked if there was anyone who wanted to comment on application 2021-2115.

No one made a request to communicate.

CHAIRMAN FREDERICK CLOSED THE FLOOR TO PUBLIC COMMENT

Mr. Getek said his view, in this case, was that it would not make much difference if he were to build it in line.

A discussion ensued.

Mr. C. Ward said the property owners did not know that someone had dumped tree limbs on the property and had to pay to get them removed. He said they also hand mowed.

Mr. Guvernator said there were vegetated wetlands behind the bulkhead and there would be more if someone had not piled stuff up on it. Mr. C. Ward said they looked to have been there for 6 months before removing them.

A discussion ensued.

Mr. Frederick asked Mr. Getek what might be his estimate for impacts. Mr. Getek said Mr. C. Ward had 200 square feet, but he thought it was less than that. He said it was hard to determine with the area being mowed.

Mr. Frederick asked Mr. C. Ward what he thought about replacing the bulkhead with a Living Shoreline, and why he was not proposing it. Mr. C. Ward said it was only 70 feet of bulkhead in between two bulkheaded properties. He added there would be a slope factor, it was a very small lot, and the owners are required by law by the HOA to maintain their bulkhead.

Mr. Guvernator asked Mr. C. Ward what were some of the fundamental reasons why a Living Shoreline would not work, and the dredge channel was pointed out.

Mr. Frederick if anyone had any more questions.

A discussion ensued.

On a motion made by Mr. Getek and seconded by Mr. Taylor, the Wetlands Board voted to issue a permit (valid for (1) year) for James & Diane Hess VMRC# 2021-2115, proposed replacement of the failing 70 feet wooden bulkhead with a new vinyl bulkhead 2 feet channelward of the existing with the following conditions:

- 1. Accept moving the bulkhead 2 feet channelward*
- 2. Pay for 200 square feet of impacts to vegetated wetlands*

The property is located on Greenbackville, VA 23356, tax map#(s) 5A1-1-1187.

E. Emergency Permit – Bucklin (5A1-1-764)

Greenbackville, VA

Replace about 24 linear feet of wooden sheathing boards and backfill

Mr. Guvernator said existing wood bulkhead was damaged on October 29, 2021. Storm took out some of the wood sheathing. The nor'easter storm on November 5, 2021 took out most of the fill.

Mr. Guvernator added that this property was adjacent to the McNure property.

Mr. Raymond Britton, Jr. appeared before the Wetlands Board on behalf of the applicant.

Mr. Britton said the property owner contacted him about the damage and did not want to lose his land. Mr. Britton said he then contacted Mr. Guvernator and he was told to apply for the emergency permit.

Mr. Guvernator showed images of the current conditions.

Mr. Worrell said they talked about vegetated wetland impacts and asked Mr. Britton if it were just sheets going in. Were they replacing in the alignment where the bulkhead was or if something else was impacting in the board's jurisdiction, especially vegetated wetlands.

A discussion ensued.

Mr. Worrell said to pay attention to the 30 yards of fill. Mr. Worrell said he assumed the board had jurisdiction behind the wall. He then asked if the fill was impacting any vegetated wetlands. Mr. Worrell said if it impacted vegetated wetlands then the board could not make the decision on the emergency procedure.

Mr. Worrell told the board they needed to go through the checklist and asked if the structure was functioning before the blowout. Ms. Nunnally said no, and showed photos for proof. The pictures were taken on October 2, 2021.

Mr. Worrell added that if staff/chairman go out to inspect and do not believe that it meets the criteria then that is what they should say, "It does not qualify, submit a regular JPA."

On May 21, 2021 while on the McNure site photos were taken of the site in question, and water was already coming through. Mr. Britton said that was due to the issues at the McNure property.

A discussion ensued.

The board came to the conclusion that this was an emergency and that it needed to be fixed.

On a motion made by Mr. Getek and seconded by Mr. Ward, the Wetlands Board voted to approve the emergency permit, (valid for 90 days), for Paul Bucklin to replace 24 linear feet of wooden sheathing boards and backfill with the following conditions:

1. Fill to the previous height before being washed out

The property is located on Greenbackville, VA 23356, tax map#(s) 5A1-1-764.

F. Emergency Permit – Stonewall Capital (5A1-1-755)

Greenbackville, VA

Replace about 18 wooden sheathing boards and backfill

Mr. Guvernator gave a summary for the proposed work. The existing bulkhead was damaged on October 29, 2021 and on November 5, 2021.

Mr. Guvernator showed photos of the property so everyone could see the damage from the storm events.

A discussion ensued.

On a motion made by Mr. Getek and seconded by Mr. Ward, the Wetlands Board voted to approve the emergency permit, (valid for 90 days), for Stonewall Capital to replace 18 wooden sheathing boards, put 36 cubic yards of backfill in back of the bulkhead and 27 cubic yards of backfill to the Northside. The property is located on Greenbackville, VA 23356, tax map#(s) 5A1-1-755.

G. Emergency Permit-Captain Fish’s Steaming Wharf (45-A-6)

Chincoteague, VA

Repair about 32 linear feet of vinyl bulkhead, in the same footprint, and rebuild existing return wall, 24 feet, with backfill

Mr. Guvernator stated that the existing bulkhead was damaged on October 29, 2021 and on November 5, 2021.

Mr. Frederick asked it was really an emergency. Mr. Britton said he thought it was.

A discussion ensued.

Beth had photos from October 6, 2021 that showed the bulkhead had a hole in it already before the storm event. Mr. Britton said he did not know.

Mr. Frederick said more than 30 days had passed since the bulkhead had been blown out. Mr. Frederick said a normal application would have to be submitted. It would have to go through the normal permit process.

A discussion ensued.

6. OTHER BUSINESS

A. Restoration Process Review

Mr. Governator said the restoration process was added to the Accomack County code about 6 months to one year ago. This was added into the enforcement section that the County did not have before.

Mr. Governator went over the process.

A discussion ensued.

(See Attachment)

B. Birchfield to Cifuentes Assignment Request – VMRC# 2021-0547

Mr. Governator said this was a permit that the board issued in May on Castaway, and the property ownership has changed.

Mr. Governator said the board needed to make a motion to transfer the name from the original property owner to the new property owner.

Mr. Frederick asked staff had anything happened on site that would nullify the permit that was approved. Mr. Governator said no.

On a motion made by Mr. Getek and seconded by Mr. Ward, the Wetlands Board voted to approve the assignment request from Birchfield to Cifuentes, for VMRC# 2021-0547. The property is located on Greenbackville, VA 23356, tax map#(s) 5A1-1-755.

C. Randolph & Susan Lieberum Extension - VMRC# 2020-1856

Mr. Governator said the Lieberum's were asking to extend their permit for 1 more year.

Mr. Governator said they lost their contractor and had to start over.

Mr. Byrd said nothing had changed on site.

On a motion made by Mr. Byrd and seconded by Mr. Getek, the Wetlands Board voted to extend for (1) year the permit for Randolph & Susan Lieberum VMRC# 2021-2115, proposed installation of approximately 155 linear feet of quarry stone sills, 80 linear feet of quarry stone rip rap revetment, and 3000 square feet, (150 cubic yards), of beach nourishment material. The property is located on Belle Haven, VA 23306, tax map# (s) 108-1-16.

D. Samuel Young – VMRC# 2021-0019

Mr. Governator said this was just an update to let the board know what VMRC did with the permit.

The board approved the JPA going out two feet channelward and VMRC decided to have the bulkhead pulled back and put in the original alignment. He added there was nothing the board needed to do to amend the permit to allow the structure to be built.

A discussion ensued.

E. Accomack Co. Public Works – VMRC 2021-2049

Queen Sound Boat Ramp was being replaced. No permit was needed, but Mr. Guvernator wanted to inform the board of the project.

F. Town of Onancock – VMRC# 2021-2110

This project was not in the board’s jurisdiction. No permit was needed, but Mr. Guvernator wanted to inform the board of the project.

This project is an extension of their waterfront improvement.

Mr. Byrd said a new vinyl bulkhead was being put in.

G. Upcoming NASA Wallops WIND Project

Mr. Guvernator said WIND stood for Wallops Island Northern Development.

Mr. Guvernator gave a summary of the project.

(See Attached Handout)

A discussion ensued.

6. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, December 16, 2021 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, 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 2:54 p.m.

Earl Frederick, Chairman

Chontese Ridley, Environmental Permit Specialist