

ACCOMACK COUNTY WETLANDS MINUTES OF OCTOBER 20, 2022

At a meeting of the Accomack County Wetlands Board held on the 20TH day of OCTOBER 2022 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. T. Lee Byrd, Chairman

Mr. Gene Wayne Taylor

Mr. Timothy Getek

Mr. George H. Badger

Others Present:

Ms. Chontese Ridley, Environmental Programs Permit Specialist

Mrs. Beth Nunnally, Environmental Planner II

Mr. Benjamin Nettleton, Virginia Marine Resources Commission (VMRC)

DETERMINATION OF A QUORUM

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

2. ADOPTION OF AGENDA

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

3. MINUTES

A. September 22, 2022

On a motion made by Mr. Getek and seconded by Mr. Taylor, the Wetlands Board voted to approve the September 2022 minutes.

4. OLD BUSINESS

A. Harold & Carroll Cherrix, Sr. - VMRC# 2022- 1734

Demolishing and replacement of an existing gear storage building and support pilings.

Ms. Beth Nunnally, (Environmental Programs), stood before the Wetlands Board and was sworn in by Chairman Byrd.

Ms. Nunnally said Mr. Cherrix called and requested a continuance to the November meeting. Mr. Cherrix said he was waiting for two state agencies to get back with him.

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted to issue a continuance for (1) month, for Harold & Carroll Cherrix, Sr.- VMRC# 2022- 1734, to demolishing and replacement of an existing gear storage building and support pilings. The property is located on Chincoteague Island, VA 23336, tax map#(s) 30-A-3D.

5. NEW BUSINESS

A. William B. & Gayle Lynch Chandler, III TR - VMRC# 2022- 2002

Proposed creation of a living shore line with (2) 100 linear feet sills and (1) 20 linear feet sill.

Ms. Nunnally gave a synopsis of the project.

Ms. Ellen Grimes, (CRM, LLC), stood before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Byrd.

Ms. Grimes went over the project stating that some of the fill would be in the board's jurisdiction and the planting would be too.

Ms. Grimes said there was an old bulkhead out there that they were going to be using as a benchmark. The landward side of the rock structures would be against the sill and the rest of the structure would be behind it.

Ms. Grimes also added that the contractor would be taking out the pilings.

It was pointed out that there was a conflict with the duration of the monitoring program. Ms. Grimes said she would correct it to make sure it stated three years.

Ms. Grimes also said she would submit a planting plan with the schedule of events.

Ms. Grimes added that they were creating more vegetated wetlands than what was currently there. What was being covered up as non-vegetated wetlands would be vegetated wetlands, and she was hoping that it would be looked at as a project that did not require payment into the mitigation fund.

CHAIRMAN BYRD OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Byrd asked if there was anyone who wanted to comment on application 2022-2002.

No one made a request to communicate.

CHAIRMAN BYRD CLOSED THE FLOOR TO PUBLIC COMMENT

Ms. Nunnally said she was wondering if the sand there was going to be used to cover the vegetation that was there to protect it from the machines going across it.

Ms. Grimes the sand was going to be used to build the elevation so they can plant. Mats would be used in any cases where the machine needed to go over vegetation.

Mr. Badger said he thought it would be helpful in the future if there was a breakdown between non-vegetated wetlands that would be filled with vegetation, (which was not a loss), for statistical purposes.

Ms. Grimes thought it was in the application. Ms. Nunnally said the breakdown of area to be encroached upon, but not the gain to compare it to.

Ms. Nunnally chimed in to add that there was encroachment of 2,000 square feet of vegetated wetlands and 3,000 square feet of non-vegetated, but it was being replanted as vegetated wetlands. There would be 600 square feet of vegetated wetlands gained/created.

Mr. Getek asked if there was a VIMS report and Ms. Grimes said that it had to be requested.

Mr. Benjamin Nettleton, (VMRC), appeared before the Wetlands Board and was sworn in by Chairman Byrd.

Mr. Byrd asked Mr. Nettleton for his opinion on the project and asked if he had been there during low tide.

Mr. Nettleton said he had been there close to low tide and thought that it was a good project. He added that the existing marsh there was a good indicator at the project being successful, and that it was consistent with a lot of living shoreline projects they have had with a sill.

Mr. Getek asked Mr. Nettleton due of the fetch and potential energetics, if he seen any potential that down the road there would be routine repair needed.

Mr. Nettleton said with the sill he did not see where there would be many issues. He stated that in the first three years there may be areas that need a little replanting, and that clause, stating maintenance is allowed, was in all their living shoreline applications.

Mr. Byrd asked how that worked and if it meant the applicant could do so without needing any extra permitting.

Mr. Nettleton said it would be replanting what was in the existing permit. If they wanted to go encroach or fill beyond what was originally permitted they would need a new permit.

Planting would start in the next planting season.

On a motion made by Mr. Badger and seconded by Mr. Getek, the Wetlands Board voted to issue a permit (valid for (1) year, for William B. & Gayle Lynch Chandler, III TR - VMRC# 2022- 2002, for the proposed creation of a living shore line with (2) 100 linear feet sills and (1) 20 linear feet sill with the following conditions:

1. Submittal of a 3 year planting plan

The property is located in Belle Haven, VA 23361, tax map# (s) 108-1-10.

B. Captains Cove Golfing & Yacht Club VMRC# 2022- 0690

Demolishing and replacement of an existing gear storage building and support pilings

Ms. Nunnally said when the application came in, in March, there was a lower tide and she thought maybe it was in the board's jurisdiction. After looking at it more recently the project was not in the board's jurisdiction, but it was too late to remove it.

Mr. Getek asked Ms. Nunnally if she could ask the persons involved to replant/move the shellfish before work began. She said she would.

6. OTHER BUSINESS

A. Chesapeake Bay Foundation - Extension Request– VMRC# 2021-1080

Extension of the existing revetment 46 feet from the west and 42 feet from the East with a 20 feet gap in the middle

The applicant requested to extend their permit due, because they been waiting on approval from the Army Corps of Engineers and VMRC, (which they did not receive until September 2022).

Mr. Byrd asked to confirm that it had been more than one year. Ms. Nunnally confirmed.

Mr. Badger said it had been over a year and they did not ask for it within the 12 month period. Mr. Badger asked Mr. Nettleton for his thoughts.

Ms. Nunnally said the permit had been expired for 3 months.

Mr. Nettleton said the code was not totally clear on this topic. He said they, (VMRC), has allowed Wetlands Boards to extend after the fact, but they believe it should be extended 1 year from the initial permit date.

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted extend the permit for 1 year from the initial permit date, for Chesapeake Bay Foundation – VMRC# 2021-1080.

B. On Site Mitigation of Non-Vegetated Wetlands

Mr. Getek said the whole concept of mitigation for non-vegetated wetlands was relatively new for the board, and had questions for what it meant to do it on site. What were the onsite options?

Mr. Getek had a few questions for Mr. Nettleton to answer:

1. Do you go upland?
2. Would it make it easier if Accomack County had a Beach/Dune ordinance?
3. How do other counties in Virginia handle on site mitigation of non-vegetated wetlands, what options do they offer, and what is their history?

Mr. Nettleton said it was a little new for VMRC too.

Mr. Nettleton said the general consensus was that no net loss could be any gain of wetlands. You could compensate any type of wetlands with vegetated wetlands. They would typically want planting to occur as an erosion control measure and yes, it would have to come from uplands.

Mr. Nettleton said 90% of projects are conversions like what Ms. Grimes had presented. There have been few sites where someone had been able to do on site compensation when with a bulkhead that is exiting. They would expect it to be planted.

Mr. Nettleton said a lot of counties have a beach/dune ordinance and Northampton County was one of them.

Mr. Nettleton said the Beach Act does not require compensation and VIMS is brought in to determine whether a site is a true beach or wetlands. Being that Accomack County does not have one, if a site was determined a beach, there would have to be two hearings.

Mr. Nettleton added that was a change that would have to be taken before the Accomack County Board of Supervisors.

Mr. Getek asked Mr. Nettleton if VMRC would like for Accomack County to have their own Beach/Dune Ordinance. Mr. Nettleton said it would make things easier for VMRC and keep residents from having to travel to Fort Monroe.

Mr. Getek then asked, to confirm, that there was no real mitigation for a beach. Mr. Nettleton confirmed that was correct.

Mr. Getek asked Mr. Nettleton if he knew of any counties that had done anything unusual when it came to onsite mitigation, or if they were taking an uplands area and converted it to vegetated. Mr. Nettleton said that was the standard way.

A short discussion ensued ending with Mr. Getek stating, to confirm, that a Beach/Dune Ordinance was not necessary right now. Mr. Nettleton confirmed.

Mr. Badger chimed in to say he thought it would be difficult for the County to want to go in that direction unless citizens were complaining about not wanting to go across the bay.

7. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, November 17, 2022 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac, VA.

8. ADJOURNMENT

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

The meeting was adjourned at 11:01 a.m.

T. Lee Byrd, Chairman

Chontese Ridley, Environmental Permit Specialist