

Minutes
Essex County Wetlands Board
109 Cross St., Tappahannock, VA,
Meeting of February 24, 2022
6:00 PM

A meeting of the Essex County Wetlands Board was held on February 24, 2022 in the School Board Meeting Room at 109 Cross St., Tappahannock, Virginia, with the following present:

Present:

Jeff Howeth – Chairman

F. L. Garrett IV.

Kevin Goff

Absent:

Nathan Parker IV.

Wayne A. Davis, Jr.

Also present:

Jay Woodward, Virginia Marine Resources Commission

Kelly McKnight, Planning and Zoning Office Manager

CALL TO ORDER

Chairman Howeth called the meeting of the Essex County Wetlands Board to order.

ROLL CALL

Ms. McKnight called the roll. A quorum was met.

AGENDA

Chairman Howeth reported that there are two cases for tonight's meeting; one by Wayne Davis, a Wetlands Board member, who will be represented by Mr. Lewis and the other case by Don Keck.

APPROVAL OF MINUTES

Chairman Howeth asked for a motion to approve the October 21 and 28, 2021 meeting minutes as presented. Mr. Goff made the motion and Mr. Garrett seconded it. AYES: 3 NAYES: 0 ABSENT: 2

PUBLIC COMMENTS

Chairman Howeth opened the public comments session and as no one came forward closed the public comments session.

PUBLIC HEARING

Chairman Howeth opened the Public Hearing for Application VMRC #22-0053 for applicant Wayne Davis, Jr., Tax Map 37-A 1-18 at 555 Riverdale Road in Essex County.

Proposed Work and Purpose

Construct a 6' wide pier 150' channelward of MHW and MLW located on existing bulkhead with 16' X 12' L-Head Platform to the left, two lift piles, and two mooring piles, all located in the Rappahannock River. Also to construct a 48' low profile groin from MHW located on existing bulkhead in the Rappahannock River. Construction site will be accessed by applicant's property and the Rappahannock River. There will be no clearing or grading required. Total of 50 (8" – 10") butt wooden pilings installed by vibratory. All wooden materials used are to be pressure treated. All hardware used is to be hot galvanized dipped.

Discussion

For the record, Chairman Howeth pointed out that Mr. Davis is a member of the Wetlands Board and had he been present would have to recuse himself from the vote.

Mr. Lewis, representing Mr. Davis, explained that the intent is to build a 48' groin from the existing bulkhead. Chairman Howeth added that natural sand occurs where Ned Ware used to live. It is a low profile groin and the pier is outside this Wetlands Board's jurisdiction. Mr. Woodward indicated that Mr. Lewis has sent pictures to VMRC and qualifies for a general permit, therefore gaining an automatic approval from VMRC.

Chairman Howeth opened the floor to anyone wishing to speak for or against the proposed work and as no one came forward brought the matter back to the Board. Chairman Howeth requested a motion to approve VMRC #22-0053 and Mr. Goff so moved. Mr. Garrett seconded the motion. AYES: 3 NAYES: 0 ABSENT: 2

PUBLIC HEARING

Chairman Howeth opened the Public Hearing for Application VMRC #21-2485 for applicant Don Keck, Tax Map 54B-3A-13 at River Oaks Road in Essex County.

Proposed Work and Purpose

The project consists of repairing a timber bulkhead immediately in front of an existing timber bulkhead. The project also consists of replacing decking on an existing pier and the removal and replacement of two timber groins with new low profile timber groins.

Discussion

Chairman Howeth indicated that Mr. Keck was detained in Richmond and could not attend. The Board decided to continue with the discussion and decide whether or not to vote or table the case at the end of the discussion. Chairman Howeth gave the background of the case stating

that in September of 2021, the Building Official was notified that there was an excavator in the river near River Oaks Subdivision. The Coast Guard and DEQ were involved. It was ultimately removed but Mr. Keck had already paid for the work and wants to figure out how to get it permitted. Chairman Howeth sees the incident as stupidity not malice. He went to the River Oaks Homeowners Association to see if they were OK with the trespass needed to remove the excavator from the river and they were. Mr. Keck has now filed for a pier permit. Chairman Howeth stated that there are two issues before the Board; one to build a low profile groin and two to construct a timber bulkhead. The timber bulkhead is 50% completed, however, it was constructed incorrectly. The fix would be to put in another whaler. Mr. Keck is not a candidate for a living shoreline.

Mr. Woodward explained that a beach is defined as the sandy area between low tide and high tide. However, if the high tide goes all the way up to the bulkhead, it is not considered a beach but a non-vegetative wetlands.

Chairman Howeth confirmed that it is a non-vegetative wetland because at high tide, the water hits the bulkhead. He asked Mr. Woodward if this Board's decisions are reviewed by the VMRC.

Mr. Woodward answered that every decision by every Board in the Commonwealth of Virginia is reviewed by VMRC. He suggested the Board impose a time frame for this case as non-action will cause more problems for the environment.

Chairman Howeth suggested giving Mr. Keck enough time to file his Breach of Contract lawsuit. He is favor of giving him 90 days to commence the work but no longer than one year to complete it.

Chairman Howeth opened the floor to anyone wishing to speak for or against the proposed work and as no one came forward brought the matter back to the Board. Mr. Garrett made a motion to approve VMRC #21-2485 with the provision added for construction to begin within 90 days and completed within one year. Mr. Goff wished to amend the motion to include a set of adequate plans received by the Board within 90 days. Mr. Garrett agreed to the amendment and made the motion. Mr. Goff seconded the amended motion. AYES: 3 NAYES: 0 ABSENT: 2

Mr. Woodward said the plans should be provided as soon as possible.

OLD BUSINESS

None.

NEW BUSINESS

Chairman Howeth stated that there is a movement in King and Queen County to disband the local Wetlands Board and have cases heard before the VMRC in Hampton, Virginia instead. He said the State gives localities the choice. He said a member of the Board of Supervisors told him that County Administrator Lombardo had brought the idea of disbanding the Essex County Wetlands Board up to the Board of Supervisors. Chairman Howeth said he feels that a local

Board knows the terrain, the people, and their needs. He also feels that having the local board is doing the citizens quite a favor. The citizens will not have to drive to Hampton Roads to have their cases heard. Chairman Howeth said the Chairman of the Board of Supervisors asked him to poll the Wetlands Board members to see how they feel about the matter. Mr. Goff indicated that the decision to disband rests with the Board of Supervisors, however, he is not in favor of it. Mr. Garrett is in favor of a local board also, as it is able to craft solutions.

Mr. Woodward stated that the VMRC meets only once a month and the sheer volume of cases is overwhelming. He said most cases deal with fisheries, not piers and the like. He said Middlesex County has at least 5 cases a month and Northumberland has 20 cases. His opinion is that local Boards can look at each case and judge the merits of each one. They can better service the citizens to adjudicate each claim.

Chairman Howeth promised to draft a letter addressed to the Board of Supervisors to be signed by all members of the Wetlands Board, requesting that the Board of Supervisors not disband the local Wetlands Board for Essex County and express the willingness of the Wetlands members to continue to serve on the local Board.

ADJOURN

Having no further business, Chairman Howeth entertained a motion to adjourn and Mr. Goff so moved. Mr. Garrett seconded the motion. AYES-3, NAYES-0, ABSENT-2. The meeting was adjourned.