

**STAFFORD COUNTY**  
**Wetlands Board Minutes**  
**April 19, 2010**

The regular monthly meeting of the Stafford County Wetlands Board of April 19, 2010, was called to order at 7:02 p.m. by Chairman Ben Rudasill in the Board Chambers Conference Room.

MEMBERS PRESENT: Ben Rudasill, Mary Rust and Sam Hess

MEMBERS ABSENT: Andy Pineau

STAFF PRESENT: Amber Forestier, Michael Lott and Aisha Hamock

PUBLIC PRESENTATIONS: None

**ELECTION OF OFFICERS**

1. Election of Wetland Board Chair and Vice-Chair for 2010.

Mr. Rudasill: We move onto the Election of Officers. As one member of the Board is absent we can defer.

Mr. Hess: Motion to defer.

Ms. Rust: I second the motion

Mr. Rudasill: All in favor say aye.

Mr. Hess: Aye.

Ms. Rust: Aye.

Mr. Rudasill: Aye. The motion passed 3-0.

**APPROVAL OF MEETING MINUTES**

None

**PUBLIC HEARINGS**

1. Wetlands Permit WB10-03 – A wetlands permit for the Aquia Harbour Property Owners Association to construct commercial piers with 136 slips within an existing marina on Assessor's Parcel 21B-1009A, Aquia Creek.

Mr. Rudasill: The next item on the agenda is a public hearing. Wetlands Permit WB10-03, a wetlands permit for the Aquia Harbour Property Owners Association to construct commercial piers with 136 slips within an existing marina on Assessor's Parcel 21B-1009A, Aquia Creek. Would staff please present the report?

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Ms. Forestier: Yes. These commercial piers require wetlands permits and as they are not permitted uses pursuant to Section 27-18 of the Stafford County Wetlands Ordinance entitled “permitted uses”. The purpose of this project is to improve a marina by replacing the existing deteriorated piers and slips and will allow better access for a wider variety of boats. The site is located within the Aquia Harbour subdivision on a dredged portion of Aquia Creek. The original piers were constructed in the late 1970’s and have been deteriorating quickly in recent years. The original application was for a minor expansion of the piers from a total of 136 to 140 slips but due to the fact that the use is a non-conforming use with respect to the zoning ordinance or simple put grandfathered with that many slips, coming into conformance would have been extremely difficult and costly to add anymore slips at this site. The applicants are therefore purposing to replace the existing piers instead. Phase one of this project would be to build piers A and B on the eastern side of the marina as the existing piers were removed in 2008 to allow for dredging of that area. Phase two would include removal of the piers to the south of the marina and construction of piers C through H. Both of the marginal docks are being constructed closer to the shoreline and as a result the greatest increase in length for the piers would be approximately twenty feet further into the channel than what is already there, even though a number of the piers appear to be forty feet longer than the original piers. The increase will easily still allow boats to pass without a measureable increase in erosion along the wetlands. The VIMS report stated that replacement of the piers and improving public safety is justified as long as all the regulations applying to marinas are complied with. The Army Corps of Engineers has approved the proposed changes as a modification to the dredging permit issued under VMRC # 06-0209, the Virginia Marine Resources Commission stated that a permit would not be required from their agency as the project is within a manmade area along Aquia Creek. The Virginia Department of Health has indicated that they do not have a permit on record for the sewage facility for this project nor has a Variance been approved. They advised that the application should be deferred until the matter was resolved, however, the applicant has explained that they cannot get a permit without construction drawings being prepared and they can’t have construction drawings until the wetlands board permit has been approved. Therefore, staff has included a condition on the proposed resolution which will require a permit from the Virginia Department of Health to be obtained prior to construction permit being issued. The Board has three alternatives, first is to adopt proposed resolution WB10-03, which approves the request with conditions; second, is to adopt proposed resolution WB10-04, which denies the request; or take no action at this time and defer this to a future meeting.

Mr. Rudasill: Would the contractor like to address the Board?

Bob Hunt: Bob Hunt, 1020 Isabella Drive, Stafford, Va. I believe you have said everything we want to replace that marina in an environmentally responsible way. We will certainly get all permits associated with construction prior to starting anything but we need the Wetlands Board approval to get the engineering drawing to get the construction permits. Any questions?

Ms. Forestier: The question will be after the public hearing after we discuss it.

Mr. Rudasill: Would anyone else like to comment on the public hearing? The public hearing is now closed and the floor is now open for discussion by the Board.

Mr. Hess: This is like a catch 22. Are you going to get a permit before sewage?

Mr. Hunt: I appreciate you mentioning that but there will probably be an electrical permit, permit to move a gas line, there are a host of constructed related permits that we will have to come and bring and

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pull before we can start construction. I can't get the engineering drawings until I get approval of the project so yes, having that as a condition will be perfectly acceptable. It is what we planned to do anyway.

Mr. Hess: So we can issue a permit with that condition?

Mr. Hunt: That is correct. We would in fact be more than willing to work under that constraint.

Mr. Hess: I make a motion to adopt WB10-03.

Mr. Rudasill: Second. All in favor say aye.

The motion passed 3-0 to approve Wetlands permit WB10-03.

**OLD BUSINESS**

None

**NEW BUSINESS**

**3. Review of recently submitted applications**

VMRC# 10-0361 Central Stafford Commerce Center (non-tidal)

VMRC# 10-0368 Chris Milleson (boat-lifts)

VMRC# 10-0458 West Hampton Village (non-tidal)

**CHAIRMAN'S REPORT**

None

**STAFF REPORT**

**4. Information on violations, enforcement and show-cause hearings**

Ms. Forestier: I just handed out a little bit of research that I have been able to do over the last month on violations in general. Basically, trying to figure out how we can have a violation procedure in place detailing how exactly we are going to go about everything, including how we are going to charge for violations and such. I have found the City of Norfolk Wetlands Board has been doing this for a number of years. Kevin Dubois wrote this article that has explained what their issues have been and then the City of Hampton actually came out with their own Wetlands Board violation procedures list. They also use the City of Norfolk's guidance table, which is quite expansive. I think because of the way we have done our in lieu fee structure, which instead of doing non-vegetative and vegetative wetlands as different categories. We have separated hardened shorelines versus rip rap and more environmentally friendly alternatives. We may have to split our civil charge guidance table in two sections for the hardened shoreline structures and for rip rap and all of the less invasive alternatives, the way we would split up the in lieu fees basically. The way this is set up is there are three different things that they look at for civil charges. They do a degree of non-compliance, the wetlands impacts and the size of the duration of the impacts. When they look at non-compliance, there are ten factors on the decision matrix. One of them is whether it is a professional marine contractor or if it is a

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homeowner. Others are whether they have had wetlands permits before so they would have had prior knowledge of the necessity of a permit. The reason they came up with this guidance table that is a lot larger than VMRC's is because they found that the charges were so large that they never applied them to people because of mitigating circumstances. So when you have a civil charge guidance that allows for, if it is a lower impact and the person really did not know what they were doing, you could charge them just a \$100. For repeat offenders, it could go up to \$10,000. The problem with civil charges is that the person has to agree to pay them otherwise it ends up in court. We have discussed this with the attorney's office upstairs and they are involved in drafting whatever it is that we come up with will be in concert. I think we have to change the way we do the civil charge guidance table because of the in lieu fee structure. The other question that our legal office had was whether you could charge both the homeowner and the contractor on the same site. I understand from this afternoon that the City of Norfolk Wetlands Board actually does. We should be able to go forward with this and figure this out.

Mr. Bacon: We charge a triple consent fee.

Ms. Forestier: I know there was some concern after the last meeting about charging the applicant the triple after the fact application fee but not the contractor. Though if we went to something more like the procedure followed in Norfolk, we could even that out with the civil charge. I believe that is what the City of Norfolk had issues with as well at one point. This is for all of you to read and look over. I will be working on it somewhat over the next month as well.

**ADJOURNMENT**

With no further business the meeting was adjourned at 7:23 PM.