

**Virginia:** At a meeting of the Accomack County Wetlands Board, held in the chambers of the Board of Supervisors on the 28<sup>th</sup> day of May, 2009, A.D.

**Members present:**

Mrs. Lee L. Merrill, Chairman  
Mr. George H. Ward, Jr., Vice-Chairman  
Mr. C. Lee Davis  
Mr. Earl B. Frederick (ABSENT)  
Mr. George T. Parker

Mr. David Fluhart, Secretary  
Mrs. Marie E. Fox, Recording Secretary

**Alternate Members Present:**

**(None at present time)**

**Others present:**

Mr. Hank Badger, VMRC

**The meeting was called to order by Chairman Lee L. Merrill, and opened to a public hearing at 10 AM. All applications are approved for a one year period from the date of this hearing, unless specifically noted. All applicants, speakers and representatives are sworn in before the Board on the following wetlands applications:**

**This Board is aware of and complies as closely as possible to the objectives of the Virginia Marine Resource Commission's Wetlands Policy of No Net Loss.**

**1). An application from Susan Merritt, VMRC #09-0263 to install a 75 foot rip rap revetment as toe protection, thereby impacting wetlands along your property at Fowling Gut, at 7308 Kingfisher Lane, Chincoteague, Virginia. TM#30A2-A-140, A, A1, B and 30A3-A-139.**

Ms. Ellen Grimes of Coastal Resource Management, appeared before the board to represent this application. Ms. Grimes advised the project was located on Fowling Gut a

man-made waterway and there is some erosion under the existing marginal wharf. Ms. Grimes did state there is a property line issue between Ms. Merritt and Ms. Nora Walker, who is her mother and the adjacent property owner. Ms. Grimes advised that property owner has been eliminated from the application and reduced the size of the structure. The adjacent property will not be impacted at all, however the existing marginal wharf is partially located on the adjacent property.

After a brief discussion, Mr. Fluhart read a portion of the VIMS Report, which stated, "We recommend the toe of the revetment be aligned as far landward as feasible to avoid wetland impacts and that revetment be limited to only those portion so of the bank that need this level of stabilization." A discussion ensued.

Mrs. Merrill called for comments from the audience, there was no response.

At this time, Mr. Davis made a motion to approve this application as presented. Mr. Ward seconded the motion. Ayes: Mrs. Merrill, Mr. Ward, Mr. Davis, Mr. Parker.

### **OTHER BUSINESS**

#### **TALL PINES CAMPGROUND**

Mr. Fluhart updated the board regarding the progress of the project. He advised Mr. Barker had started and completed a large portion of the project, however Mr. Barker used an earlier site plan instead of the approved plan dated October 27, 2008, which is significantly different than what was approved. Mr. Fluhart advised there were photos to indicate the progress.

Mr. Fluhart further advised he has sent a letter to remove the portion of the project that was installed incorrectly and have a consultant re-stake the alignment and submit a

revised site plan and then Accomack County Wetlands Board would confirm the alignment regarding the relocation of the boat ramp if he wishes it to remain in place.

After a lengthy discussion, the board discussed fines, a possible Show Cause hearing, and civil penalties. Mr. Fluhart read a portion of the wetlands code which stated, “Any person who knowingly, intentionally, or negligently violates any order, rule, or regulation of the Commission or of a wetlands board established pursuant to this chapter, any provision of this chapter of a wetlands zoning ordinance enacted pursuant to this chapter, or any provision of a permit granted pursuant to this chapter is guilty of a Class I misdemeanor. Following a conviction, every day the violation continues is a separate offense.” Mr. Fluhart explained that he could file the proper paperwork and take this through court and could take longer and the property may encounter erosion, and after everything was filed, the owner could have this all corrected in a short period of time and it would be a mute point.

At this time, Mr. Parker suggested forwarding a letter to explain to Mr. Barker the consequences of this action and advise him to attend the next meeting to explain his actions and the possibility of a Show Cause hearing.

Further discussion ensued regarding the boat ramp location and the possibility of an amendment to the permit to have the ramp remain in the same location, which would require board approval, which a change to the impacted wetlands, therefore renotification and re-advertising. Mr. Fluhart read a portion of Section 28.2-1308 D. “Upon receipt of a sworn complaint of a substantial violation of this chapter from a designated enforcement officer, the Commission or a wetlands board may order that the affected site be restored to predevelopment conditions if the commission or board finds

that restoration is necessary to recover lost resources or to prevent further damage to resources.”

In conclusion, Mr. Parker made a motion that the board discussion concerning the noncompliance with the approved permit and that a letter be sent to the owner that he must come before the Board at the next hearing to explain why he did not comply with the permit and that the letter include the penalties for noncompliance and give notice of the July Show Cause hearing and to forward this letter to the U. S. Army Corps of Engineers.

Mr. Davis seconded the motion. Ayes: Mrs. Merrill, Mr. Ward, Mr. Davis, Mr. Parker.

Mr. Fluhart read another portion of the code, which stated Section 28.2-1317 B. “The Commissioner or board chairman may require such on-site inspections as he believes are reasonably necessary to determine whether the measures required by the permit are being properly performed, or whether the provisions of this chapter are being violated. Prior to conducting any inspection, the Commissioner or board chairman shall provide notice to the resident, owner, occupier, or operator, who shall be given an opportunity to accompany the site inspector. If it is determined that there is a failure to comply with the permit, the commissioner or board chairman shall serve notice upon the permittee at the address specified in his permit application or by delivery at the site of the permitted activities to the person supervising those activities and designated in the permit to receive the notice. The notice shall describe the measures needed for compliance and the time within which these measures shall be completed. Failure of the person to comply within the specified period is a violation of this section.” A discussion ensued.

Ms. Grimes advised she believes Mr. Barker will comply in a reasonable time.

**AARON BATES-QUINBY**

Ms. Grimes questioned the Board in regard to the most financially efficient means to complete Mr. Bates' proposal. Some ideas were the use of Geobags that would be filled with sand and possibly busted up concrete as the rock is expensive.

If Mr. Bates does change his mind on the method of his proposal would he need board approval? The board concurred that an approval would be required for any modification to the original permit.

**ADJOURNMENT**

Mr. Davis made a motion to adjourn the meeting at 11:57 AM. Mr. Parker seconded the motion. Ayes: Mrs. Merrill, Mr. Ward, Mr. Davis, Mr. Parker.

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Mrs. Lee L. Merrill, Chairman