

Wetlands Board Minutes – May 8th, 2019

Board Members Present: Paulson, King, Brassington, Burton, Ballard, Wilson
Board Members Absent: Strickland
Alternate board member(s) designated to vote: Worgess
Meeting start time 1300
Meeting end time 1600

April 2019 Minutes Approval: Motion by Mr. King, seconded by Mr. Ballard, passed unanimously

1. Lyon Shipyard #16-0845: Request for 3-year permit extension for construction of a steel sheet-pile bulkhead to impact non-vegetated wetlands at 1818 Brown Avenue on the Eastern Branch of the Elizabeth River

Project for the was approved by the wetland board June 8th, 2016 See letter from Lyon shipyard requesting extension for this marine industrial site.

Representing project: Agent: Dan Terry Environmental Manager Lyon shipyard

Staff Recommendation: To approve request for wetland permit extension

ACTION TAKEN: Motion by Mr. Ballard, seconded by Ms. Wilson and passed unanimously with Mr. King recusing his self as Lyon shipyard is one of his clients.

II Wetland Violations

2 Owner: Garden of Prayer Church of God in Christ
Location: 5110 Nichal Court on the Lafayette River
Civic League: Colonial Place/ Riverview

Violation: Mowing vegetated wetlands and unpermitted structure in wetlands without a permit

Violation History: Previous violation for mowing of wetlands by property owner Garden of Prayer Church was brought before the Wetland Board November 13th, 2013. Mr. Rudolf Turner church representative agreed to Boards order to stop mowing and was assessed \$1000 with \$500 waived if a property representative attended wetland education seminar. Records show that \$500 fine was paid, and church representative attended seminar. A survey with wetland delineation was completed by the City in 2009 showing jurisdictional wetlands on the property and in undeveloped ROW Mayflower Street which was subsequently closed by ordinance in 2015 and given to adjacent property owners.

July 9th, 2018 complaint received of mowing of wetlands at 5110 Nichal court which resulted in certified letter being sent out to meet onsite. Wetland Board Staff met onsite with Bishop Willis on July 17th, 2018 and advised to stop mowing wetland. Staff went over benefits of wetlands including water quality and protection from flooding and delineated wetlands onsite and suggested landscape timbers or blocks to clearly mark wetland to prevent further violations. Jan 15th, 2019 wetland board staff received complaint about deck structure being built in wetlands. Certified letter to meet onsite and stop work order issued by Building Codes for deck and handicap access ramp built approximately 8' feet into wetlands. Bishop Willis called March 5th stated he has been having health issues and meeting was held in City Hall on March 27th, 2019 and at property recently on May 1st, 2019. Bishop Willis and his Jasper Willis son were very cooperative at site meeting and discussions were held on how to help alleviate flooding of property. Staff flagged wetland since previous flags had been removed. New pictures from site were received yesterday evening.

Staff recommendation is to order restoration with following conditions.

1. Permanently cease mowing of jurisdictional wetlands per wetland flags placed onsite on May 1st.
2. Establish demarcation line with landscape timbers or blocks to prevent any further mowing violations by June 8th, 2019
3. Remove timber ramp and 4x4s posts installed in jurisdictional wetland without authorization by June 8th, 2019
4. Obtain after the fact building permit for deck and ramp landward of wetland through City of Norfolk development services center

ACTION TAKEN: Approve staff recommendation for restoration motion by Mr. King, seconded by Mr. Ballard and passed unanimously.

CIVIL CHARGE RECOMMENDATION: Motion by Mr. King, seconded by Mr. Worgess and passed unanimously with the violator being assessed a civil charge in the amount of \$1000.00. The Board has waived \$500 of the amount provided two persons associated with the church attend a City of Norfolk wetlands education workshop by August 31st, 2020 with one of those persons being Jasper Willis. The remaining civil charge amount of \$500 shall be paid no later than June 8th, 2019.

3. Owner: James Openshaw III

Address: 233 Sir Oliver Road

Civic League: Cromwell Farms/ Ellsworth

Contractor: Robert Chaklos- Tidewater docks and Marine Construction LLC

Violation: Construction of 93 linear ft bulkhead to impact non-vegetated wetlands without Wetland Board authorization or building permit.

Violation was brought to staff's attention by complaint from neighbor on January 25, 2019. Staff sent out certified letter to meet on site February 1st and first meeting was held March 8th, 2019 with Wetland Board staff Nate Bowman and Mr. Openshaw to confirm violation. A second meeting was held on April 17th with Mr. Openshaw, Carl Eason, Bob Simon, Nathan Bowman and Seamus McCarthy. Mr. Openshaw explained that he hired Tidewater Docks and Marine Construction to repair failing bulkhead and relied on the contractor to pull all required permits. A previous application JPA 05-1361 for replacement of an existing 120 LF bulkhead and boat ramp was approved by the Wetland Board in November 2005. 93 lf of the bulkhead with 20 piles was constructed in same alignment as previous bulkhead. Looking at aerials it does not appear that any vegetated wetlands were established landward of failed bulkhead.

Staff Assessment: The bulkhead was replaced without any wetland or building permits or contact with the City of Norfolk by either owner or contractor. If staff would have been called to meet onsite for pre application meeting staff would have recommended living shoreline approach due to low wave energy, large area of mud flat at low tide and size of yard with no significant trees adjacent to bulkhead. The VIMS assessment for the site is: Remove existing shoreline structure if present; grade bank if necessary and install a non-structural living shoreline which may include riparian buffer planting along the bank, and/or marsh plants, coir logs, or oyster reefs along the shoreline. Best choice for low energy environments.

Since the bulkhead has been installed removal at this point would result in significant sediment deposition into waterway and would add considerable cost to the Openshaw's who relied on their contractor for permitting guidance.

Staff Recommendation is to Issue Restoration Order with the following conditions:

1. Remove pieces of filter fabric and piles of fill that has accumulated in front of bulkhead.
2. File after the fact JPA to permit the 93 linear feet of bulkhead which was replaced. The JPA shall will include a water quality component by planting *Spartina Alterniflora* in the area adjacent to bulkhead as recommended by staff with all required wetland special conditions.
3. Establish stabilization of disturbed area landward of bulkhead with vegetated buffer to include grass and recommended trees and shrubs to help uptake and filter stormwater.
4. Obtain after the fact building permit for structure through City of Norfolk development services center.

ACTION TAKEN: Approve staff recommendation for restoration motion by Mr. King, seconded by Ms. Brassington and passed unanimously with an after the fact JPA submitted by June 8th, 2019.

CIVIL CHARGE: Motion by Mr. King, seconded by Mr. Ballard and passed unanimously with the violator being assessed a civil charge in the amount of \$500.00. The Board has waived \$400 of the amount provided that Mr. and Mrs. Openshaw attend a City of Norfolk wetlands education workshop by August 31st, 2020. The remaining civil charge amount of \$100 shall be paid no later than June 8th, 2019.

Civil Charge Assessment for contractor Mr. Chaklos:

CIVIL CHARGE: Civil charge in the amount \$5000.00 with \$2500.00 waived provided Mr. Chaklos attend a City of Norfolk wetlands education workshop within six months of the hearing date of May 8th, 2019. The remaining civil charge amount of \$2500.00 shall be paid within 60 days of the above-mentioned hearing date. Motion by Ms. Brassington, seconded by Ms. Burton and passed by all with Mr. King abstaining.

4. Review of JPA 17-1248 Thrasher 7027 Kirby Crescent Approved August 9th 2017 by wetland board completed November 2018