



**Wetlands/Coastal Dune Board
Public Hearing & Regular Meeting
Town Hall
August 6, 2009
4:00 p.m.**

At 4:02 p.m. in the Town Hall, Chairwoman Ann Hayward Walker called to order the Wetlands/Coastal Dune Board Public Hearing and Regular Meeting. In attendance were board members Wayne Creed, Russ Dunton, Scott Walker and Jim Weiner. Also present were Town Planner Tom Bonadeo, Town Clerk Libby Hume, R. J. Nutter, attorney for Harbor Development Group, John Lowenthal from Landmark Development, Tom Langley from Langley & McDonald, Hank Badger from the VMRC, and four representatives from Bay Shore Concrete. There was one member of the public in attendance.

CONSENT AGENDA

Hearing no objections, Ann Hayward Walker stated that the agenda format was approved by unanimous consent.

The Board reviewed the minutes from the May 27, 2009 Regular Meeting. Russ Dunton noted a grammatical change at the bottom of page 1.

Motion made by Russ Dunton, seconded by Wayne Creed and unanimously approved to accept the minutes as amended.

Ann Hayward Walker stated that the purpose of the Public Hearing was to hear public comments regarding the Harbor Development Joint Permit Application.

PUBLIC COMMENTS

Mr. Chad Saunders, Bayshore Concrete

Mr. Saunders addressed the Board to explain Bayshore Concrete's concerns regarding the proposed Harbor Development. Mr. Saunders distributed a list outlining the design requirements for the bulkhead at Bayshore Concrete (see attached). An additional concern that was not included on the list was that the soil anchors would have to be drilled in vs. cut in due to the fact that the rail service would have to be stopped in order to cut in the anchors and that is not possible since the rail service brings in the concrete.

Mr. Nutter addressed Mr. Saunders' concerns and stated that he has been working with Bayshore Concrete and will continue to work with Bayshore and the Town to ensure that everything gets worked out to the satisfaction of all parties involved.

There were no further comments from the public or written comments submitted.

Ann Hayward Walker closed the Public Hearing portion of the meeting at approximately 4:20 p.m.

NEW PROJECTS

Harbor Development JPA Wetlands Review

Tom Bonadeo invited Mr. Nutter to present his information regarding the application. Mr. Nutter stated that he wanted to begin by focusing on the jurisdictional map which he distributed to the Board members. Mr. Nutter stated that the wetlands in question were already disrupted and of very low value. The Virginia Institute of Marine Science (VIMS) report showed that the area is covered by rock, debris, etc. with erosion from the site going into the Bay. There was no vegetation and very little life in the area. The Army Corps of Engineers stated that this project will be replacing sand, etc. and will provide a new area for biological life. Mr. Nutter went on to distribute an aerial photo of the area depicting the existing and proposed bulkheads and stated that the proposed bulkhead would stop the erosion.

Mr. Nutter went on to discuss the mitigation plan for storm water management stating that a three-tiered storm water system would be installed which he believed would be the first storm water management system installed on this side of the Harbor.

Mr. Nutter then addressed the economic impact which estimated approximately \$150M in total capital improvement costs in the first three phases, not including slip income. Mr. Nutter stated that this complies with the Town's Comprehensive Plan and has been approved by the Town Council.

Scott Walker stated that there was a pipe going under Bayshore Road, relating to the storm water, which should be located. Tom Bonadeo agreed that there was such a pipe but stated that one could not see the pipe opening from either side of the street. Tom Bonadeo added that Bayshore Concrete has an extensive storm water management system and are required to routinely report back to the various governmental agencies due to the nature of their business.

Russ Dunton expressed his concern regarding the retention pond and the flow from other properties going into the Harbor. Tom Bonadeo explained that this issue was beyond the jurisdiction of the Wetlands Board but the Department of Environmental Quality (DEQ) would ensure that everything regarding this issue was done properly. Tom Bonadeo went on to state that it was an extensive process but the DEQ would mandate that everything was done according to their regulations prior to issuing a permit.

Russ Dunton went on to state that he was also concerned about i) shoreline stability; ii) the distance that the boat slips would extend beyond Bayshore Concrete's area so as not to hinder re-vegetation, etc.; and iii) drainage.

Ann Hayward Walker asked the other board members if they had similar concerns. Wayne Creed stated that he was not concerned with the issues that were not under the jurisdiction of the Wetlands Board and went on to state that he liked this project and feels that it looks good and would be good for the environment, but his concern was that according to the VA Wetlands Management Handbook, any development in a wetlands area must be necessary for economic development and he did not see where this was "necessary" and would the fact this marina was built, bring in the boaters. There was much debate regarding the term "necessary" and Tom Bonadeo stated that the Town Council, in approving this project to move forward, felt that it was "necessary" for the future economic development of the Town and that the real issue was the protection of the working harbor and the board needed to look at the value of the wetlands vs. the value of the improvements. Mr. Nutter stated that a market study showed that the demand of docking should increase and that typically, a marina development was difficult due to the wetlands concern regarding contamination of the particular area and that condemned

areas were ideal for a development of this kind. In this case the wetlands area was already disrupted and of very low value and was one of the areas that met the requirements for development. Once the breakwaters are installed, this area will be the preferred location for a development of this type as well as for recreational boaters.

Ann Hayward Walker asked that if the economic base is the main value to the Town, is there a downside if this project does not meet its expectations? Tom Bonadeo responded that this is currently an impaired wetlands area and if nothing else comes to fruition, there will at least be a new bulkhead and an excavated harbor which would be beneficial to the Town and add value to the harbor area. Tom Bonadeo went to state that currently the Town Harbor has a 5-year waiting list for boat slips. Jim Weiner stated that he has been on the waiting list for 3.5 years.

Motion made by Scott Walker, seconded by Wayne Creed, to call for the question whether to approve or disapprove this application.

Mr. Hank Badger recommended a summarization of any conditions in the motion. Russ Dunton stated that he was still concerned regarding the stormwater management, even though it was not in the jurisdiction of this board, and requested conditions be added regarding this issue as well as the issue of having the appropriate governmental agencies review the request for placement of boat dockage outside the applicant's property.

An amended motion was made by Ann Hayward Walker, seconded by Wayne Creed, to approve the JPA #09-0167 for the Harbor Development Group with the following conditions:

- 1. Removal and fill as proposed.**
- 2. SAV project contribution in a 5:1 ratio.**
- 3. Protection of the east and west neighbors' bulkheads.**
- 4. Operation as a Virginia Clean Marina as previously required by the CUP.**
- 5. Incorporate "pervious pavement" on the plaza area adjacent to the bulkhead and incorporate plantings in the landscape plan.**
- 6. The boat slips to be located outside the applicant's property line must be reviewed by the US Army Corps of Engineers.**
- 7. The DEQ to review and approve the stormwater management system of the property.**

The motion was approved by a majority vote, with Wayne Creed opposed.

Motion made by Ann Hayward Walker, seconded by Wayne Creed and unanimously approved that in the future, Tom Bonadeo's staff report should include any information regarding the economic impact of any proposed project to be reviewed by the Wetlands Board.

Motion made by Scott Walker, seconded by Jim Weiner and unanimously approved to adjourn the Wetlands / Coastal Dunes Board meeting.

Chairwoman Ann Hayward Walker

Town Clerk