

Town of Cape Charles
Wetlands/Coastal Dune Board

Minutes
March 1, 2005

At approximately 10:15 p.m., March 1, 2005 in Council Chambers, Chairman Heath called to order the meeting of the Cape Charles Wetlands/Coastal Dune Board. Additional members present were Russ Dunton, Ned Brinkley and Ann H. Walker. Greg Lohse arrived at approximately 10:30. Also present were Town Clerk Joy Pelletier and Tom Langley, PE, LS of Langley & McDonald, Inc. who was there to act as agent for both Baymark Construction Corporation and Bay Creek Marina & Resort, LLC. Approximately eighteen members of the Public were present.

Chairman Heath led the Pledge of Allegiance.

The motion was made by board member Dunton to approve the agenda format as revised and the minutes of September 18, 2004 and September 23, 2004. The motion was seconded by board member Walker and unanimously approved.

Review: *Shoreline Erosion Stabilization JPA #04-2843* Baymark Construction Corporation submitted an application to extend the recently constructed breakwater and beach system to the north. The beach would be restored with trucked sand from an upland borrow site and two detached offshore breakwaters would be constructed to maintain the restored beach. Tom Langley gave a brief overview of the project and answered questions from the Board relating to the planting of beach grasses to help maintain the restored beach area.

Public Comment

Kobi Carter introduced herself describing a small bit of her background making sure all in attendance knew she has no ties to Baymark Construction or Bay Creek Marina & Resort, LLC., but that she was there only as a concerned citizen. As she began her comment, it was determined her true interest was in the application which had been submitted by Bay Creek Marina and Resort, LLC, so her comments were postponed.

There were no further comments on this application.

Motion was made by board member Walker to continue the hearing on this application until March 23, 2005 at 10:00 a.m. to allow the appropriate agencies the time to review the application and the site. The motion was seconded by board member Brinkley and unanimously approved.

Review: *Shoreline Erosion Stabilization JPA #04-2844* Bay Creek Marina & Resort, LLC. submitted an application to stabilize an eroding shoreline with offshore detached breakwaters and beach fill. Sand would be trucked in from an upland borrow site and five detached offshore breakwaters would be constructed to maintain the restored beach. Tom Langley spoke giving a brief history of that site and how an earlier application for on shore revetment had been approved

by the board and subsequently remanded by the Virginia Institute of Marine Science. It was determined onshore revetment for this site would not be in the best interest for the aquatic life, or the property owners; therefore the offshore breakwaters were suggested. Further discussion included where the breakwaters would be placed, how the beach is a common area for the community's homeowners, that each homeowner has a right to beach access, and the involvement of the Homeowner's Association.

Public Comment

Kobi Carter again introduced herself indicating she was not there to represent Bay Creek or anyone's opinion. Shi indicated while practicing real estate in New York, she had clients with similar interests and had researched situations such as these in the past. She indicated that her concern is Bay Creek's seemingly relaxed attitude in its responsibility to its property owners. Her comments also proved she has done significant research into the Homeowner's Association By-laws/contracts and State Code. She submitted that the Board could ask the Developer to place sufficient funds in escrow to replenish the beachfront if the breakwaters do not complete the task. Board member Walker explained this Board's function is to balance the economic, environmental and ecological aspects of each application while trying to preserve property sites, and that addressing the Homeowner's Association does not fall into that realm of culpability. Board members Dunton and Brinkley made comments in the same vein. Board member Dunton further suggested if the Board asked for escrow funds, the funds may be received from the property owners in the form of a special assessment through the Homeowner's Association. This would negatively affect the property owners.

Mike Pierson who owns Cherrystone Aqua Farms voiced his concern over silt and backfill into his leased area and hatchery. He asked if there could be a restriction to the time of year the breakwaters would be constructed. Discussion ensued and he was assured that the contractor would work with him to minimize any disturbances to the Aqua Farm.

Thad Nowak indicated he is a property owner who supports the construction of the breakwaters.

Kathleen Kurgan also indicated favor in the construction of the breakwaters on the Bayside. She also indicated she thought the Wetlands/Dune Board was correct in its stance of not forcing escrow funds and being closely involved with the Homeowner's Association.

Kobi Carter wanted to go on record to say she disagreed with that sentiment.

A motion was made by board member Walker seconded by board member Dunton to continue the hearing process until March 23, 2005 to allow all agencies sufficient time to review the application and property site.