

AGENDA
PORTSMOUTH WETLANDS BOARD
PUBLIC MEETING
WEDNESDAY, DECEMBER 7, 2022
WORK SESSION 3:00 P.M./PUBLIC MEETING 3:30 P.M.
6th FLOOR CONFERENCE ROOM
CITY HALL, 801 CRAWFORD STREET

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF THE MINUTES FOR OCTOBER 5, 2022

4. WORK SESSION ITEM:

Presentation by Barbara Gavin, River Star Homes Program Manager with The Elizabeth River Project. An update to her last presentation in 2019 on the successful installation of living shorelines and riparian buffers.

5. PUBLIC HEARING ITEM:

N/A

6. NEW BUSINESS

- Nomination and Voting on Chairperson and Vice-Chairperson
- Adoption of the 2023 Wetlands Board Meeting Schedule

7. ADJOURNMENT

2023 Meeting Schedule

Wetlands Board

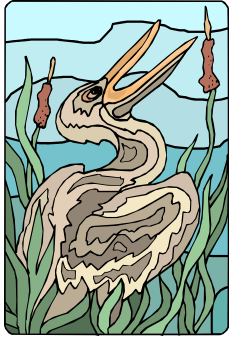
City of Portsmouth

FIRST WEDNESDAY OF EACH MONTH AT 3:30 P.M.
6th Floor Conference Room
City Hall Building, 801 Crawford Street

Application Deadlines	Meeting Dates
(Note the deadline for applications and material to be received by 5:00 P.M. on the date listed.)	
November 22, 2022	January 4, 2023
December 21, 2022	February 1, 2023
January 25, 2023	March 1, 2023
February 22, 2023	April 5, 2023
March 22, 2023	May 3, 2023
April 26, 2023	June 7, 2023
May 24, 2023	July 5, 2023
June 28, 2023	August 2, 2023
July 26, 2023	September 6, 2023
August 23, 2023	October 4, 2023
September 27, 2023	November 1, 2023
October 25, 2023	December 6, 2023
November 21, 2023	January 3, 2024
December 27, 2023	February 7, 2024

THE APPLICANT MUST ATTEND MEETING OR SEND A REPRESENTATIVE.
INCOMPLETE APPLICATIONS WILL **NOT** BE PLACED ON THE AGENDA.
IN THE EVENT THE REGULAR MEETING IS POSTPONED
DUE TO ANY REASON, THE PUBLIC HEARING WILL BE HELD AT THE
SAME TIME AND LOCATION ON THE THIRD WEDNESDAY OF THE MONTH.

801 Crawford Street
Portsmouth, Virginia 23704-3822
Phone: (757) 393-8836 Fax: (757) 393-5223



AGENDA
PORTSMOUTH WETLANDS BOARD
PUBLIC HEARING ACTIONS
WEDNESDAY, OCTOBER 5, 2022, 3:30 P.M.
6th FLOOR CONFERENCE ROOM
CITY HALL, 801 CRAWFORD STREET

- 1. CALL TO ORDER JENNIFER MONUMENT**
- 2. ROLL CALL MONUMENT (VICE-CHAIR), SMITH, CALVERT, COMSTOCK, GOOLD**
ATTENDEES: MERVINE (STAFF), MALZONE (STAFF), MILLER (ATTORNEY), NETTLETON (VMRC)
- 3. APPROVAL OF THE MINUTES FOR AUGUST 3, 2022 APPROVED (5-0)**
- 4. PUBLIC HEARING ITEM:**

VMRC#22-1263: JSSY LLC proposes to demolish and fill an existing marine railway, construct a new steel bulkhead and approximately 40 square feet of proposed vegetated wetland disturbance at 3301 Shipwright Street. The property is further described as Tax Map 702, Parcel 30. The subject project is located along the Western Branch of the Elizabeth River.

APPROVED with conditions (5-0)
- 5. NEW BUSINESS**
- 6. ADJOURNMENT 4:55 PM**

In The Matter Of:
City of Portsmouth
Wetlands Board - Public Hearing

October 5, 2022

ZAHN
COURT REPORTING

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Norfolk, Virginia 23510
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Min-U-Script®

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CITY OF PORTSMOUTH
WETLANDS BOARD
TRANSCRIPT OF PUBLIC HEARING
WEDNESDAY, OCTOBER 4, 2022, 3:30 P.M.
SIXTH FLOOR, CITY HALL

BOARD MEMBERS PRESENT:

- Jennifer Monument, Vice Chairperson
- Donald Smith
- Rich Calvert
- Patrick Goold
- Ellen Comstock

STAFF PRESENT:

- Amy Mervine, Senior Planner
- Valerie Malzone, Senior Planner
- Jeffrey S. Miller, Asst. City Attorney

ALSO PRESENT:

- Ben Nettleton, VMRC

Reported by: Kimberly A. Watrous, RPR

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I N D E X

ITEM	PAGE
VMRC#22-0917, 4300 HATTON POINT LANE	3

1 (Call to order at 3:30 p.m.)

2 VICE CHAIR MONUMENT: We'll go ahead and
do the call to order. Doug's out today. So my name
3 is Jennifer Monument. I'm the co-chair or vice
chairperson. So I'll help facilitate the meeting
4 along with Amy today.

5 If we want to go ahead and start by doing
the roll call.

6 (Roll Call)

7 VICE CHAIR MONUMENT: Everyone got the
minutes in the packet Amy emailed out to us. Do we
8 have any changes to the minutes, or can I get a
motion to approve?

9 MR. CALVERT: I move we approve the
minutes from the last hearing.

10 MS. COMSTOCK: I second that.

11 VICE CHAIR MONUMENT: All in favor, raise
your right hand.

12 (Response)

13 VICE CHAIR MONUMENT: That's five in
favor, no opposed. The minutes are approved.

14 MR. SMITH: We talked about researching
grant moneys. Was there anything done with that?

15 MS. MERVINE: Did you want to talk about
this at the end?

16 MR. SMITH: I was going to bring that up
while we're talking about the last minutes. But I
couldn't find it until I just saw it. We can talk
17 about it for old business.

18 MR. GOOLD: There were three item/actions
that aren't on the agenda.

19 MS. MERVINE: Did I not put that in the
new business? Oh. I guess I could have put that in
there. My bad.

20 MR. CALVERT: That's okay.

21 Let's go ahead and hear the case so that
we can get the gentlemen on their way. And then we
can discuss our business if that's okay.

22 VICE CHAIR MONUMENT: I think that's the
best way to go.

23 We'll go ahead and have the public
hearing.

24 VMRC#22-0917:

25 VICE CHAIR MONUMENT: Item VMRC#22-0917,
Cypress Cove Association, Phase III, Inc., requests
maintenance of the existing shoreline structures,
which includes removing and replacing bulkhead and

1 wetland disturbance of both vegetated and
2 non-vegetated wetlands at 4300 Hatton Point Lane.
3 The property is further described as Tax Map 746,
4 Parcel 47. The subject project is located along the
5 Western Branch of the Elizabeth River.

6 Do we have someone to speak on this
7 project?

8 MR. GOOLD: Can I ask a question? There
9 was this letter from VIMS about proposing some
10 amendments. Were they incorporated? I couldn't see
11 a difference between the document I received --

12 VICE CHAIR MONUMENT: I didn't see where
13 they were incorporated.

14 MS. MERVINE: So we had done multiple site
15 visits. Me, Ben, and VIMS had gone out.
16 Unfortunately, she had gone on vacation. So it just
17 took a hot second to get the recommendations. So at
18 the time, I just went ahead and put it on the agenda
19 to go ahead and move forward. And then when I got
20 the recommendations, I just decided to forward that
21 to you guys. So it's up to you guys how you want to
22 incorporate that. You can either include that as a
23 condition, defer it and have them revise the
24 application, or whatever you guys want to do.

25 VICE CHAIR MONUMENT: Okay. So the short
answer is, no, the recommendations for VIMS haven't
been placed in here.

Do we have someone from the agent who
wanted to speak on it, or should we just proceed?

MR. CALVERT: Why don't we have Amy do her
staff report --

VICE CHAIR MONUMENT: Yeah. Go ahead.

MR. CALVERT: -- and give us a brief
description of the project. And then we can have
the agent come up and answer any questions that we
may have after that.

VICE CHAIR MONUMENT: Yeah.

MS. MERVINE: Pretty much this is a big
project. So I know there is a lot going on. So
bear with me.

So pretty much they have an existing
bulkhead in most of the areas here in this condo
association for Cypress Cove. And a lot of it is
replacing it either in kind, in line, or -- one of
the areas, the Section A through A -- I keep
forgetting we have this up here. This section up
here, it mainly has some saltbush that's going to be
disturbed and the spartina -- I butcher the word --
but alterniflora. You guys know what I'm talking

1 about. They're pretty much going to be replacing
2 the bulkhead in kind. And some of it will be a
3 little bit higher up. So that is not in the
4 Wetlands' jurisdiction. It's going to be more the
5 CBPA portion.

6 And then up here -- so the section for B-B
7 is going to be similar. Just kind of replacing the
8 riprap in place.

9 Section C --

10 VICE CHAIR MONUMENT: Amy, I'm sorry,
11 because this map when I noticed when I read through
12 it the other day, it doesn't have anything labeled
13 as A-A or B-B or C-C. Can you use the laser pointer
14 to point to which section --

15 MR. SMITH: One of the pages has that.

16 VICE CHAIR MONUMENT: One does when they
17 zoom in.

18 MR. CALVERT: So there's part plans for
19 each section where they blow it up and identify --

20 VICE CHAIR MONUMENT: Yeah. What I'm
21 saying is, as you're talking about each section,
22 either go to this page so we can see which --

23 MS. MERVINE: I gotcha.

24 VICE CHAIR MONUMENT: -- one you're
25 talking about --

MS. MERVINE: I didn't even realize that.
I think they originally had it on their first
application.

VICE CHAIR MONUMENT: They had it on some
of the subsequent pages, but not on the big map. So
if you would just --

MS. MERVINE: Oh, yeah, yeah.

VICE CHAIR MONUMENT: -- point at what
you're talking about, it would be easier.

(Talking over each other.)

MR. SMITH: And before you get going
again, I'm gonna burst if I don't ask this right
now.

There are some bulkheads existing right
now. Some are going to be riprap revetments. Some
will be replaced with new bulkheads.

MS. MERVINE: Uh-huh. The woodens.

MR. SMITH: Is there a reason why we're
putting bulkheads back and not doing all riprap? Is
there a reason why the bulkhead is necessary?

MS. MERVINE: I think it's because of the
wave action on this side in particular. It's just
going to be too high to do a living shoreline. Now,
I'm not sure if it would be something on this. I

1 would have to ask Ben if you know why they couldn't
2 do a living shoreline particularly on this side.
3 Because I think the wave action on this side was
4 high, and that was one of the reasons they were
5 recommending just doing the bulkhead back.

6 MR. SMITH: But even the riprap is
7 preferable to the bulkhead in high-energy areas.
8 Am I right on that, Rich?

9 MR. CALVERT: Not necessarily. Not
10 necessarily.

11 MR. SMITH: Okay. All right.

12 MS. MERVINE: Yeah. And I think it was
13 just to the slope. They already have -- I have some
14 pictures down here that might be a little more
15 beneficial.

16 VICE CHAIR MONUMENT: Rich, did you or
17 anyone else go on the site visit?

18 MR. CALVERT: I did not.

19 VICE CHAIR MONUMENT: I wasn't invited to
20 a site visit.

21 MS. MERVINE: Uh-uh. No. A lot of it was
22 just me, Ben, and VIMS going. I went a couple
23 times. When I had spoken with staff, the
24 recommendation was that you guys go two at a time.
25 If not, then it's going to be a public hearing, and
we have to advertise and do all that. So my
recommendation for you guys is to go two at a time
to these site visits. If you decide you guys would
rather -- we can go through and just, you know,
advertise, do the public hearing, but then anybody
can come.

MR. SMITH: On something this big, it's
probably worth having us all there so we can talk
about it and do the legal notice on it.

MS. MERVINE: Okay.

MR. SMITH: There was a lot of things
like, I'd like to see this, and I'd like to ask some
questions of my peers.

And on a smaller thing, maybe it's not as
important.

MS. MERVINE: Okay. I think one of the
reasons is because you have this big slope of this
existing wooden bulkhead right here. And I think --
I mean, I think technically they could probably come
in here and try to slope it out. But I'm not sure
what the reason was versus just doing the riprap
versus just the wooden bulkhead.

MR. SMITH: And this is the cypress tree
that's mentioned in Emily's -- one of Emily's

1 recommendations.

2 MS. MERVINE: Uh-huh. Yeah. I noticed
3 it. I had written it in the report, as well, just
4 saying that we had recommended that they do this in
5 place, and be mindful that the roots have probably
6 grown around it. But they are aware that, you know,
7 they don't want to try to damage. I think the
8 association would like to try to protect it as well.

9 VICE CHAIR MONUMENT: Then there's a note
10 on that same tree about the cypress knees are coming
11 out further. So that was one of the amendments,
12 Patrick, that was in Ben's letter.

13 MR. GOOLD: I didn't understand what the
14 recommendation was. What does it mean to continue
15 in line? Are we replacing that notch and then
16 continuing with the existing bulkhead? Or is it now
17 continuing with the straight line --

18 MR. CALVERT: No. You're putting it in
19 the same alignment as the existing wall. So you
20 have to actually pull that wall out and then put the
21 new one in.

22 MR. SMITH: This is where they will only
23 do -- they will tear down and replace and keep going
24 like that so nothing has time to settle in between?

25 MR. CALVERT: I didn't read that
particular comment. I don't recall that. I just
remember her talking about doing that wall in line
around the tree. And that's what that is. It's a
more expensive process and a little bit more risky
to do because you can see it's a real pain in the
neck to try and pull it out. But it's not that
much. And I guess that's just one area that her
recommendation was to do it in line anyway.

MS. MERVINE: Uh-huh.

MR. CALVERT: Okay.

MR. GOOLD: And that's what in line means.
You're making --

MR. CALVERT: Put it in the same alignment
that exists right now so there's no impacts.

MR. GOOLD: Looking at the plan, it looks
like in line would be going straight. I understand
now.

MR. CALVERT: I understand what you would
think, too, certainly.

MS. MERVINE: My bad.

Did you have any other questions about
this spot with the timber bulkhead? This is in
Section F. I don't know if it's easier if we go
section by section.

1 VICE CHAIR MONUMENT: Why don't we start
2 doing that and then come back to whether we have
3 questions.

4 MS. MERVINE: Would it be better if you
5 guys looked at the photos, or did you actually want
6 to look at the plan? Which one is better for
7 visual? I could scroll up and down to both.

8 MR. CALVERT: Probably the blow-up plan
9 that shows the new work that's proposed.

10 MS. MERVINE: We'll start with Section A.
11 So that will be this section right here. This is
12 remove and replace the bulkheads. Pretty much in
13 line with what it already is. There is wooden
14 already right here, and then it changes to the
15 riprap. There is a couple wetland impacts up here.
16 There is some saltbush that was mentioned here.
17 Replacing it, they will avoid the saltbush that's
18 existing right here. So they're going to do all the
19 work upland of it.

20 And then replacing the riprap in kind
21 right here.

22 VICE CHAIR MONUMENT: So none of that
23 saltbush in Section A is going to be part of it
24 that's moved --

25 MS. MERVINE: Yeah. Uh-huh.

MS. MERVINE: Yeah. Uh-huh.
VICE CHAIR MONUMENT: -- because that was
mentioned too.

MS. MERVINE: Yeah. This part will not be
transplanted. This is the recommendation that we
say that they avoid impacting it at all. So they're
going to do more of the work more upland and just
replace in line with existing timber bulkhead.

And then this is the section a little bit
further up. It has pieces of existing riprap
they're going to try to do in line.

The existing wetlands that are going to be
impacted here, they did mention in there the
transplanting schedule. We did ask them to go ahead
and mention, even though they're going to be
transplanting up -- up here in this corner, they're
transplanting the spartina up into this marshland up
here. But we made them note it as wetland
disturbance because what if it dies. So that's
counted in the total as well.

MR. CALVERT: So the transplanted wetlands
are not included in the mitigation?

MS. MERVINE: It is. The transplanting
for the plants, yeah, we have them included here.

MR. CALVERT: No. What I'm saying is

1 you're not giving them credit for the plants they're
2 moving and transplanting somewhere else. So the
3 wetlands -- the vegetated wetlands that are coming
4 up and being moved, they're not going to count as a
5 credit towards the total. So those are wetlands
6 that have been destroyed.

7 MS. MERVINE: Yeah. Those are counted
8 towards the impacted wetlands. I see what you're
9 saying. We asked them to include that.

10 MR. CALVERT: Because if they do die --

11 MS. MERVINE: Right. Then it's
12 technically lost wetlands.

13 MR. CALVERT: -- there won't be any
14 concern because you've already planted new.

15 Okay. I just wanted to clarify that.
16 That was one of VIMS's things, too, I thought as
17 well.

18 VICE CHAIR MONUMENT: There was a question
19 I didn't understand about the timing of the
20 planting. And maybe Ben could shed a little light
21 on that.

22 Is there a better time of year to do the
23 replanting or transporting of the vegetated
24 wetlands?

25 MR. NETTLETON: It's generally the same as
planting. Fall is generally the best time of year
when it's the cooler season and the water table is
the highest. It's up to the board if you all want
to count transplanting as a loss or not. You have
VIMS's recommendation in front of you, their
statement on that.

MR. SMITH: Fall is preferable, but spring
falls right in behind that preference.

MR. NETTLETON: Yes. Any time that it's
not the heat of the summer and the water table is
higher.

MS. MERVINE: Any other questions?

MR. GOOLD: We're discussing Section A.
Is that the same section as in the second paragraph
of the VIMS letter that was suggesting recommending
reverting to the initial plan of using a rock
revetment?

MS. MERVINE: I would have to look back.
I didn't have a whole lot of time to prep looking at
the VIMS recommendation.

MR. CALVERT: Yes, it is, Patrick.

And I think they changed it to avoid the
wetland impacts. If you put riprap in, you destroy
the saltbush. If you put bulkhead in, you leave the

1 existing wetlands intact. And I think that's what
was preferable.

2 MR. SMITH: So that answers my question 10
minutes ago. This is less damaging to the existing
3 wetlands to replace the riprap.

4 MR. CALVERT: Right.

5 MR. SMITH: Excuse me. To do the
bulkhead. There's a greater footprint when you do
the riprap.

6 MR. CALVERT: Correct.

7 MR. GOOLD: VIMS reasoning was long-term
impact might be greater with a vertical bulkhead.

8 MR. CALVERT: I would agree with them if
that was a high-energy area. But we're talking
9 about on the back side where I don't think you're
going to get that kind of wave energy. So I don't
10 think you're going to get refraction against that
wall to take out that saltbush in the future. I
think that would be okay.

11 MR. SMITH: Can we see the bulkhead that
is showing a little bit at the bottom left? Because
12 that is very little fetch there, very little impact,
wave-energy impact there. That was one of the
13 things I said, Well, I don't understand why a
bulkhead would go back in there. But if you were to
14 build a revetment right there and wait for Mother
Nature to repair the loss of the wetlands, how long
15 would it take before you had maybe a better wetlands
system there?

16 MR. CALVERT: You may not ever have
wetlands there again. If you destroy them with
riprap, there's a good chance they won't grow back.

17 VICE CHAIR MONUMENT: Can you scroll down,
please, slightly. I'm trying to see one inch is
18 50 feet. Awfully close to that building.

19 MR. CALVERT: What is the wall?

20 VICE CHAIR MONUMENT: The bulkhead to the
building.

21 MR. CALVERT: I think that reinforces the
need for a wall being that close to a structure.
Protect it from damage.

22 VICE CHAIR MONUMENT: To your point, if
they put in riprap and nothing grows back.

23 MR. CALVERT: Right. What Emily is scared
about is when the waves come in and hit the wall,
24 they refract and destroy that. So I think we've
agreed that's such a low-energy area, that would be
25 fine back there the way it is, and we wouldn't lose
that saltbush. I think we're all in agreement that

1 that's okay.

2 VICE CHAIR MONUMENT: Do you want to move
to Section B?

3 I'm sorry. Going back to A-A, is it
4 replacing with a vinyl bulkhead? Is that what it
says on the plan? Is it vinyl or wood? I just want
to understand that.

5 MR. CALVERT: We can ask the agent when he
comes up.

6 MR. GOOLD: It says vinyl on the plan.

7 MS. MERVINE: I was thinking of Section F
where it says vinyl/timber bulkhead.

8 VICE CHAIR MONUMENT: Some places it says
just vinyl. Then we were talking about timber as
well. So I wanted to get clarity on that.

9 So Section B-B is reworking and replacing
this riprap. That's not --

10 MR. CALVERT: Rework and replace riprap,
yeah.

11 MS. MERVINE: In place.

12 VICE CHAIR MONUMENT: Can we see the
pictures you took on the site visit, please?

13 MS. MERVINE: This part starts Section B.
This is the existing timber bulkhead on
this side.

14 VICE CHAIR MONUMENT: Doesn't look super
impressive.

15 MR. SMITH: The replacement bulkhead is
due to be about the same height?

16 MS. MERVINE: Uh-huh. Yeah. I think it's
all replaced in kind, very similar.

17 VICE CHAIR MONUMENT: You've got oysters
there.

18 MS. MERVINE: That is something I noted in
the report, as well, when I was speaking with Bob
about it was protecting the oysters or moving them.
He did say that they would minimize the impacts to
it, and I was, like, it's so cool.

19 MR. CALVERT: I guess that's where the
riprap is placed in that area where the mudflat is.

20 MS. MERVINE: This part is replaced in
similar with either the vinyl or timber bulkhead.

21 Then the places where it has the existing
riprap, they're going to replace in kind with
existing riprap. The place with the bulkhead right
here, they're going to replace in kind with the
bulkhead.

22 MR. CALVERT: That's Section C.

23 MS. MERVINE: It's a part of both I think

1 when you look at the plans because C kind of, like,
2 stops, like, right up in here. It kind of begins
3 part of the timber bulkhead, and then it kind of
4 extends further out.

5 VICE CHAIR MONUMENT: Section B indicates
6 that any spartina located along the riprap there,
7 like that's growing in front of the riprap there, is
8 going to be relocated.

9 MS. MERVINE: Uh-huh. Up to that spartina
10 marsh at the top.

11 VICE CHAIR MONUMENT: I thought this was
12 an interesting note. If, like, the construction
13 that occurs in the summer, they wouldn't try to move
14 it because, like we were establishing earlier,
15 summer is not the best time to move these kinds of
16 plants. But if they don't have to move it in the
17 summer, why do they have to move it at all, was the
18 question.

19 MS. MERVINE: Great question.

20 VICE CHAIR MONUMENT: Am I interpreting
21 that correctly?

22 MR. CALVERT: The rock has to go in so
23 it's going to cover it up.

24 VICE CHAIR MONUMENT: But would it go
25 behind -- is the rock when it's reworked,
quote/unquote, is it going to be reworked behind the
existing grass because it says in the summer if they
do the work in the summer they'll leave it in place
and avoid it? So just because of the time of year,
would that impact where they were putting the rocks?
I guess that's where I was confused. Like, to your
point, if they're going to put the rocks down,
they're going to crush the grass or kill it. But if
they're going to avoid doing that, if they do it in
the summer, how is that possible?

MR. SMITH: Rich, what's your experience
been with the success of transferring the plant like
that?

MR. CALVERT: That has to be counted as a
loss. If it grows, that's great. But I found that
they've never let me transplant before. VMRC has
never let me do that. You just don't know. It
creates -- because you go back, and then if it
didn't work, you have to do replanting again and
start all over. So you pretty much, if you just go
ahead and take that as a loss, you avoid having to
do that. When you do the new mitigation, you cover
that.

VICE CHAIR MONUMENT: That would be in the

1 square footage of the --

2 MR. CALVERT: Right. They're doing a
3 valiant effort to try and move it to an area to try
4 and fortify that marsh, which is good, and it will
5 help that marsh out. But at the same time, we can't
6 really give them credit for that.

7 VICE CHAIR MONUMENT: So in the square
8 foot, it's like 496 or something square feet, that's
9 not counted in that 496.

10 MR. CALVERT: I think it is counted.

11 MS. MERVINE: Yeah. That's something I
12 asked him to include.

13 MR. CALVERT: They've taken the area
14 they're going to transplant and counted it as a
15 loss. We'll verify that with the agent.

16 VICE CHAIR MONUMENT: I think we're saying
17 the same thing. They're counting it as a loss. So
18 that's got to be part of the mitigation.

19 MR. CALVERT: Correct.

20 MR. SMITH: If they try to dig it up,
21 aren't you disrupting a lot of base, soil, bottom?

22 MR. CALVERT: Yeah. If you come in. They
23 can pull it out. You can try and pull out sections
24 of it. It's probably better to do it with hand
25 labor. But you're going to have to excavate anyway
to put the rock in and install filter cloth.

The only thing I do see is that I'm not
quite sure why we didn't do a revetment where C is
since you did a revetment for B. It seems like it
would work along there.

MS. MERVINE: I think it was so the
difference in height between the non-vegetated and
up here. I don't remember the actual elevation
difference, but this is probably the biggest
elevation difference. So that can be the only
reason I could see why they're going to replace it
in kind.

MR. CALVERT: Right. It's just the
low-energy side of the project. That's all. Once
we get to the other side, we'll have heavier wave
energy too. Conditions are changing a little bit.

VICE CHAIR MONUMENT: We've almost covered
Section C here.

MR. CALVERT: Correct.

VICE CHAIR MONUMENT: So do we want to
move along to Section D?

MR. CALVERT: What is that aerial that's
crosshatched between C and D? Is that an existing
revetment to remain?

1 VICE CHAIR MONUMENT: That's the
eradication phragmites.

2 MR. CALVERT: That's a strand of
phragmites? Okay.

3 Now, here's my question. We've got
phragmites removal on site. Are we going to plant
4 anything back?

5 MS. MERVINE: That's a good question.

6 MR. CALVERT: Because we know there's a
good chance it's going to come back. If we're going
to excavate or do something with it, maybe it would
7 be a good time to try to grow something differently.

8 MS. MERVINE: That would be something to
bring up.

9 MR. SMITH: They're going to use an
herbicide, two treatments. So you don't want to
plant anything until you're pretty sure the
phragmites has been handled.

10 MR. CALVERT: The best way to combat
phragmites is to get something else in there.
11 Change the grade of the substrate where it's growing
at. That helps. Poison it. That will get rid of
12 some. And then replace it with another type of
plant. So if you come at it with three different
13 things, it may be more favorable to be successful.

14 VICE CHAIR MONUMENT: It says, at least in
the VIMS letter, there's existing rubble including
asphalt in Section D that will be removed, and then
15 rock revetment is proposed. This section,
particularly the northern portion, is characterized
16 by a lower bank than the other section of the
property and is further from existing structures.

17 MR. CALVERT: So they do note they're
going to rework and replace it. So I assume that's
18 going to be pulling out the bad material and
overlaying it with good, clean granite.

19 MR. SMITH: If I could work backwards.
Before Section D, that area where the phragmites is
20 going to be eradicated, is there any hard structure
there to protect the shore?

21 MS. MERVINE: Not that I saw. Here's that
left side. It was pretty much all the mudflat.

22 MR. SMITH: So you have a bulkhead and
then go into an unprotected situation?

23 MS. MERVINE: I think so.

24 MR. SMITH: Isn't that fraught with peril,
risky?

25 MR. CALVERT: We do have a marsh behind
and in front of it. I'm hoping that's what's giving

1 protection there. You do have a point. If the
2 phragmites is removed, maybe that's where you put
3 your new spartina that you're replacing.

MR. SMITH: It will fill in. The spartina
4 will fill in.

VICE CHAIR MONUMENT: I think in the VIMS
5 letter I just want to make sure that it's still
6 talking about Section D when they recommend
7 consideration of stabilizing the section with a rock
8 sill channelward of the existing vegetation. Such a
9 structure could provide adequate stabilization while
10 minimizing impacts to vegetated wetlands and
11 facilitate kayak and other small-vessel access to
12 the water should that be desired.

13 So I guess it looks like there's something
14 there, and what they're recommending is that all the
15 bad material's removed, but it does need to have
16 some sort of rock sill there.

17 MR. CALVERT: Talking about D?

18 VICE CHAIR MONUMENT: Yes.

19 MS. MERVINE: This is something onsite
20 VIMS said instead of removing the asphalt and all of
21 the concrete pieces and then doing the silt out here
22 in the water instead of, you know, disturbing all of
23 the wetlands here.

MR. CALVERT: Right. But that's typically
24 what you do in a low-energy scenario. If we're
25 talking about a high-wave energy area, and D is in
that, I'm not too crazy about putting a sill. I'm
sure the next thing we want to do is plant behind
it. So you're almost creating a living shoreline at
Section D right where you're getting hammered by all
the waves coming around that point. I think a
revetment being reworked and redone would be a much
better --

MR. SMITH: Well, they're calling it a
revetment in the plans. Not a sill.

MR. CALVERT: Well, Emily's calling it a
sill. So that means a low-profile little growing
just to keep the roots intact until they grow. I
don't know that wetlands would do very well up at
that point right there. That's my thoughts anyway.
That's the high-energy area. And I don't know if I
would want to do some type of hybrid living
shoreline along there. We've already got riprap
there that could be reworked and redone too.

VICE CHAIR MONUMENT: Amy, on picture 11,
if you scroll down, I think it's number 11, there's
some sort of a drain or something that's cutting

1 into the beach there.

2 MS. MERVINE: No. There's no drain there
3 that I know of. I think it was just the way the
4 water was that day.

5 MR. CALVERT: I guess Section F is going
6 to be probably the larger portion of it with
7 550 feet of vinyl bulkhead. That's behind
8 jurisdiction, is that correct, of the Wetlands
9 Board?

10 MS. MERVINE: Yeah. Back here. The
11 elevations on this side were definitely a little bit
12 harder to distinguish between CBPA --

13 MR. CALVERT: It's an unusual property.

14 MS. MERVINE: -- and the Wetlands.

15 All of this has the existing timber
16 bulkhead that's proposed back in line.

17 MR. CALVERT: So if that's beyond our
18 jurisdiction, we really can't make a decision on
19 that right now one way or another.

20 MS. MERVINE: Yeah. I think there's,
21 like, the area here -- I wish I brought my other
22 notes. But some of it over here I think is more out
23 of the jurisdiction. I really wanted them to
24 identify exactly where on, like, the plans wetlands
25 or RPA. That way it was a little easier to
distinguish to you guys. He might be able to
explain it better.

MR. CALVERT: Right. So you're going to
have to do a lot of work with the CBPA on this
project after we finish.

MS. MERVINE: Oh, yes.

MR. CALVERT: So there's a tremendous
amount of planning and everything else to be done
once we're finished here. We're just looking at the
wetlands impacts at this time.

MR. SMITH: What's the outlook for that
cypress tree? It's right in front of the bulkhead.
It's fairly mature right now. What's the long-term
outlook for a plant like that?

MR. CALVERT: I would leave it alone. I
would give it a chance to keep going. I don't
think -- there's not too much they recommended to do
around it to try and save it.

MR. SMITH: I think the knees are an
indicator that it's doing well.

MR. CALVERT: And, hopefully, the roots
stop when they hit the existing wall. Sounds like
the most appropriate way to do it is go behind that
wall and do another one.

1 I do see here where it says the phragmites
2 eradication area will be spread with spartina patens
3 once the phragmites has been eradicated. So that's
4 good.

5 MS. MERVINE: Most of that is on the
6 southern portion of the right side.

7 MR. CALVERT: Right. That's good they're
8 trying to bring it back around.

9 MR. GOOLD: I thought this was a very
10 thoughtful proposal, well-considered.

11 MR. CALVERT: Looks like they spent some
12 time on it.

13 MR. SMITH: Where did you say the patens
14 was going to go?

15 VICE CHAIR MONUMENT: At the top.

16 MR. CALVERT: Where the phragmites is
17 being removed. Right there in front of the wall.

18 MR. SMITH: Channelward of the new
19 bulkhead.

20 VICE CHAIR MONUMENT: The section I
21 think -- oh, yeah, there it is. It's the top part.

22 In the staff recommendation, Amy, we have
23 the normal conditions, and then you've added the
24 applicant shall purchase the required 489 tidal
25 mitigation credit and provide proof of such
purchase. We said that did include the spartina
that would have to be removed.

MS. MERVINE: Transplanted.

MR. CALVERT: How much square foot is
being transplanted? I'm curious. That's all.

MS. MERVINE: I didn't print out the
application.

VICE CHAIR MONUMENT: I only see, like,
the 1,000-some-odd square feet.

MS. MERVINE: I would have to relook that
back up.

VICE CHAIR MONUMENT: I think each section
has its own amount. So like Section D-D mentions
133 square feet of vegetated wetlands, spartina.
And then the rest of the 489 is over in Section B-B
and A-A. B-B has 109 square feet spartina, and A-A
has 21 square feet.

MR. CALVERT: We can ask the agent, too,
if we want to find that.

VICE CHAIR MONUMENT: So it's in here,
Amy. It's in individual sections.

MS. MERVINE: I think it was mentioned in
the actual application.

MR. CALVERT: Right. I'm sure it was.

1 MS. MERVINE: I hope I sent that out, too,
and not just the staff report.

2 MR. CALVERT: You guys want to hear from
the agent at this time?

3 VICE CHAIR MONUMENT: Yes.

4 MR. SMITH: Love to.

5 MR. SIMON: I'm Robert Simon with
Waterfront Consulting, 2589 Quality Court, Virginia
Beach, Virginia 23454. I'm the agent for Cypress
Cove Villas.

6 This project has been in the making for
over a year. And we started -- Ms. Stacy Porter was
7 here, Rachel Peabody was here, and we've had
numerous site visits out to this site to come up
8 with this plan.

9 I think I can probably clarify some of the
questions I was hearing from members of the board.

10 This section here, A-A, originally we were
going to do riprap. The impacts for the vegetation
were tremendous. When we first started this
11 project, it was in October a year ago. We did drone
flights in November. We did another drone flight in
12 March. We did another drone flight in the middle of
summer.

13 The spartina growing along this section in
B-B and the saltbush bloomed. That wasn't there on
14 our original drone flights.

15 So I hear a lot of the questions about
what are the numbers of the spartina. The group
that met out there -- there was VIMS out there.
16 Emily was out there the first meetings. Rachel.
Stacy was out there. The idea was to try and save
17 as much of the spartina that was growing in the toe
of the existing riprap and saltbush that had sprung
18 up along through here. That's the reason we
switched that section from riprap to bulkhead. Pull
19 the bulkhead out and do it.

20 Cost-wise, they're both expensive. To try
and pull an old timber bulkhead out, you risk
21 braking it out off, and you have to do extra
excavation to drive it down.

22 To do riprap here, we've only got 25 feet
between the building and the bulkhead now. So we
don't have a lot of room to sit there and slope this
23 thing back at 2 to 1. It's a very low-energy area
as Richard pointed out. There's nothing back here.
24 We would have to get a storm that came in from the
west to generate waves back in that area. So that's
25 the reason we went to a bulkhead in line in this

1 section.

2 As far as the main portion of the impacts
3 for the vegetative -- if you go to the next slide.
4 There have been bunches of little pockets of
5 spartina that have sprouted up in the toe of this,
6 of Section B-B. They weren't there the first time
7 we were out there. They sprouted out the second
8 time we were out there. The idea was floated to try
9 and transplant them if they're there present,
10 depending on the time of year you do your
11 construction. See if you can move them over and not
12 just dig them up and destroy them. We said we'd
13 make the effort.

14 The 489 number includes all of these
15 impacts and the impacts up here. So there's
16 489 square feet of pockets of spartina. We measured
17 every pocket of spartina on the last drone flight in
18 the last site visit we did. That's where that
19 number came from. We will try and transplant it if
20 it's there when we're working.

21 We're still going to pay the in-lieu fee
22 of 489 square feet of spartina impact. So if it
23 survives, that will be terrific. We can put it on
24 this side. If it doesn't, we've already paid the
25 mitigation for fee the impact of it and its no-net
loss by paying the fee.

As we go around, this is a riprap
revetment. It is low. There's no filter cloth
under it. So that's why we want to rework it and
put filter cloth under it and put the stone back on
it and proper revetment so no more erosion on this
side.

As we get to this bulkhead -- this riprap
only goes halfway up that bulkhead. This bulkhead
is six to seven feet tall. That is why we're not
trying to lay that area back. Because to do that
properly, to do a proper living shoreline there, you
really need the grade that's 5 to 1, 8 to 1 to give
the vegetation a chance. And if we try to do that
back, we'd be up to the building here. So we
decided let's pull it out, drive it back in place.
This isn't going to be as hard to pull out because
it's vinyl. I doesn't break off like timber. We
can extract that one and drive a new one in in its
alignment.

As far as this section here, this is a
lower high marsh up here. It's got patens and
spartina on the edge. It's got saltbush. But it's
got a huge phragmites stand right here. We would

1 like to eradicate that. And in its place, you're
2 right, is to plant spartina patens. High marsh,
3 infrequent inundation is all it needs to survive.
4 Nice and green in the summertime, turns brown in the
5 wintertime. But you don't have to mow it or
6 maintain it. So that is the idea. This is a slope.
7 There is no structure on that slope. There's
8 nothing at the bottom of it. And we want to try and
9 just maintain the natural slope there.

10 As we come around the corner and get to
11 Section D-D, there's a bunch of, I don't know, it
12 looks like they dropped a road off it out here, a
13 bunch of asphalt. I don't know when that came or
14 who put that there. But our plan is to clean that
15 whole area up.

16 As Richard pointed, this is northeast.
17 This is the river. I would never put a living
18 shoreline on a northeast fetch or exposure because
19 all you're asking for is failure. You can't build
20 anything big enough to maintain it. So we want to
21 come behind what's left of the wetlands there and
22 just put a revetment on the existing slope.

23 Again, it's an unconsolidated broken
24 concrete and stuff that was dumped there over the
25 years as an attempt to stop the erosion. And what
26 we want to do is actually put in a proper revetment
27 on it.

28 Come down to the next one. The cypress
29 tree. Everybody agreed save the cypress tree. The
30 bulkhead would be two feet in front up to this point
31 or drip line of cypress tree, and then we'll go in
32 line. Extract timber bulkhead and go in line so we
33 don't cut through the existing root system of the
34 tree. Nobody wants to damage the tree.

35 Again, there's no room here to do a
36 revetment. We're just too close to the buildings.
37 So this is replacement of a bulkhead here, and we
38 can use drive anchors so we don't have to dig up all
39 the yards or slope or land behind it.

40 As we follow this down -- and this is all
41 above Wetlands Board jurisdiction with the
42 elevations at the toe of the bulkhead.

43 As we go down further, we come to a point
44 and we stop the bulkhead here. This bulkhead,
45 according to the owners, because these are all
46 individually owned lots. According to the owners,
47 these are fine bulkheads. Can't force anybody. So
48 this is not going to be bulkheaded. The bulkhead
49 will stop here. We'll put a return into the

1 existing timber bulkhead. We'll then pick up
2 again -- you know, again, we have two areas of
3 phragmites removal the homeowners would like to do.
4 Get rid of the phrag and plant spartina patens in
5 its place. It's not low enough for spartina
6 alterniflora. It's too high. But spartina patens
7 would thrive there.

8 MR. SMITH: So where the bulkhead ends
9 about mid page, is there any protective structure
10 below that?

11 MR. SIMON: We'll put a two-foot return
12 back into the existing bulkhead. This is a timber
13 bulkhead that continues. It was put in I think --
14 when I did the permit history search, I think that
15 bulkhead is about 12 to 15 years old. It's still
16 functioning. It's reaching its design life though.

17 In answer to your question, this is a new
18 vinyl bulkhead going in. These people do not want
19 to do this again. This is not an inexpensive
20 project. We do the phragmites removal and
21 eradication and plant it with patens here. Again,
22 the bulkhead will go right behind it.

23 As we get down to this section, the
24 bulkhead comes down, it juts down, it goes along,
25 and then it comes back in. This was about the only
26 section where we had enough room between the
27 buildings and the existing bulkhead structure to
28 say, Hey, we can build this bulkhead or the riprap
29 behind the existing bulkhead. We have room to go
30 one and a half, 2 to 1 on the slope of the rock and
31 protect this side here. So that was the reason we
32 chose the different structures. This was the
33 combined recommendations of the different agencies
34 that were all on site at the times we met on this
35 one.

36 I really appreciate them willing to meet
37 us out there more than once to try and resolve these
38 issues. Amy's met us out there maybe two times I
39 think. Ben's been out there a couple times. So
40 this is a project that they have dreaded coming, but
41 they've known it's coming.

42 I notice one of the comments that Amy put
43 in her conditions was to issue the permit for a
44 period of two years. I would ask the board, if you
45 have the authority to, issue it for three years.
46 They cannot afford to do all of this at once. This
47 has to be phased. They're going to attack this
48 bulkhead section through here first because it's
49 getting hammered. It's all northeast exposure.

1 MR. SMITH: How many phases?
2 MR. SIMON: They're looking at probably
3 three phases on this. It's condo association, and
4 they've got to come up with the money for special
5 assessments.
6 MR. SMITH: So this phase is first. How
7 long should that take?
8 MR. SIMON: I'm going to guess, by the
9 time they do this phase down through here, do this
10 section and the next section up, you're probably a
11 three-month project.
12 MR. SMITH: Can you work year round on
13 this project?
14 MR. SIMON: They can work year round,
15 provided they have the funds to do it. The
16 contractors would do it year round. It's the funds
17 that really would be the controlling factor. They
18 would want to take care of this section first. Then
19 the sections on the backside are protected. So
20 there's no real reason they couldn't do that at any
21 time of year.
22 MR. SMITH: So being sympathetic to the
23 homeowners, to the association, and their financial
24 issue, you guys could do it kind of a continuing --
25 finish phase one and go to two and have it done
within two years, right?
MR. SIMON: The entire project probably
could be done within a year if they worked it from
one end to the other, from a construction
standpoint. From a funding standpoint, they don't
have the funds to do that.
MR. SMITH: Well, so what kind of hardball
do we play? You're saying two years, which is
standard. Are there many exception made to that?
MS. MERVINE: I mean, you guys can extend
it.
MR. CALVERT: We extended the one. The
guy wanted five years or eight years or something
crazy. I think we went to five. But I wouldn't be
opposed to three because that's VMRC's term as well.
And then, at that point, I feel they probably should
have to go back and see if anymore wetlands have --
since we had some pop up. I'm comfortable with
three years. That way there won't be any nab to
figure out when the permit expires. The VMRC and
Wetlands permits will coincide with each other. If
they need to renew or extend, we can certainly hear
them again and entertain giving them an extension.
MR. GOOLD: That makes sense to me.

1 MS. COMSTOCK: I would go for that.
2 MR. CALVERT: I don't like to go crazy
3 with it. But at the same time, it's a big project,
4 and I don't mind taking some consideration into
5 that. Although they're at the end of my street, and
6 they cut me off all the time in traffic.
7 MR. SMITH: You might have to recuse
8 yourself.
9 MR. CALVERT: Yeah, yeah.
10 They definitely need some work out there.
11 They get hammered there.
12 MR. SMITH: I'm sympathetic to the
13 financials, but there are loans to be had.
14 MR. CALVERT: I'm more concerned about the
15 guys that think their bulkhead is fine, and
16 everybody else is doing their work, and they're
17 going to have to go back in two years and revisit
18 this again and start all over again. But there's
19 nothing you can really do.
20 MR. SIMON: When I did the permit history
21 on this lot, we had a section done here. Then a
22 couple years later, a section done here. There's
23 probably five different phases of bulkheading that
24 were out there that were done in sections. And we
25 strongly encourage the owners of that lot, You don't
have to do it. Let us permit it in case you decide
you want to do it while they're here. And they
chose not to.
I mean, it was not a whole lot, as Richard
can tell you, to continue that red line across that
other area.
MR. CALVERT: It's a very problematic area
for permits though. I tried to do a boat lift one
time in there, and we couldn't determine who event
had the permits. They just popped up. There's
lifts and piers that are non-permitted all over the
place.
MR. SIMON: I wasn't going to go there.
MR. SMITH: So this work you're doing
here, though, on either side of the owner that
doesn't want to participate, this work won't hasten
the degradation of his --
MR. SIMON: No. He's bulkheaded. It's
secure. We'll put in the returns where we stopped
the vinyl. So he is -- as long as his bulkhead, the
life of it is still good, we're not going to be
driving over the top of his property to access this.
MR. SMITH: All this work is being done on
the water?

1 MR. SIMON: They are still going around
2 with the different contractors because one
3 contractor says, I can deliver stuff by water and
4 install it. Much less impact in the upland.
5 However, much more expensive way to put the bulkhead
6 in versus bringing in a backhoe with a headshaker
7 that can drive along the edge here and drive the
8 bulkhead in.

9 So our recommendation -- they've asked me.
10 My recommendation is there's quality contractors.
11 One wants to do it by land. One wants to do it by
12 water. They're just going to have to make up the
13 decision. We do it by land, we will have a backhoe
14 driving through here. But it will be done quicker
15 and less expensive. Water, we don't have to have a
16 designated staging area down here for where we
17 stockpile all the materials. They bring it in by
18 barge. The contractor looking at doing it is based
19 not two miles north of this. It's a cost factor.
20 If they do it by land they can do more of the
21 project now.

22 VICE CHAIR MONUMENT: Anybody have any
23 other questions?

24 Thank you.

25 MR. SIMON: You're welcome. Thank you,
all.

VICE CHAIR MONUMENT: So after reading the
VIMS letter again, after hearing the presentation,
I'm wondering if someone, Ben, you or someone else
can explain what the disparity is between the
recommendation of staff and the recommendation of
VIMS, or if there isn't a disparity, to tell us that
too.

MR. NETTLETON: I certainly cannot speak
for VIMS. It's not --

VICE CHAIR MONUMENT: VMRC. Excuse me.

MR. SIMON: Sure. It's not unheard of for
VIMS to have a recommendation -- typically, VIMS's
recommendation is not considering minimums to the
law. They're looking at the greater ecological
benefit and stuff. There are often times where you
can do less than VIMS recommends but still be
lawful.

VICE CHAIR MONUMENT: Yes. Because one of
the things that's mentioned in here is the cypress
tree. And it looks like it is in line with the
recommendation. So I know earlier we said that this
plan that we had didn't incorporate those
recommendations. But that one does seem to be

1 incorporated in here. So I just wanted to clarify
2 that some of this does look like it's already been
incorporated into the plan.

3 MR. NETTLETON: Absolutely. A lot was
4 from Amy reaching out to Bob with things that needed
5 to be addressed like the tree.

6 MR. CALVERT: I think the only thing that
7 separates the application from the VIMS
8 recommendation at this point is the area where they
9 recommended that sill. And I don't think that's a
10 very good idea based on the wave energy and the
11 fetch and the location. But other than that, I feel
12 like the application is pretty much in compliance
13 with the general scope of VIMS's letter and staff's
14 recommendation as well.

15 I think Amy did a great job on this. I
16 know you were thrown into the fire. And this is a
17 pretty big job to try and decipher. Good job.

18 MR. SMITH: How high of a sill was Emily
19 suggesting?

20 MR. CALVERT: Generally, they go up to
21 mean high water. That's it.

22 MR. SMITH: So storm action --

23 MR. CALVERT: Go right over it.

24 MR. SMITH: It's a moot point.

25 MR. CALVERT: I'm seeing a lot of this
lately where -- everybody sees these high tides
we're having lately that are crazy. They're going
right over top of all the low revetments and all the
wetlands and hitting banks that have never had any
type of water on them. I'm seeing erosion 50 and
60 feet back behind existing conditions along the
shoreline now. It's from these weird storms that
come in, and the high wave energy is getting back
there. I think it's a real issue.

I think that the design is very thought
out, and it's a good hybrid design. It's just not
one section fits all.

MR. GOOLD: So would it be appropriate to
approve this proposal with the amendment that the
permit shall expire in three years after?

MR. CALVERT: I feel comfortable with that
if someone wants to make a motion for that.

MR. SMITH: Is that the only other
condition?

VICE CHAIR MONUMENT: That would be the
only change to how it's proposed right now, would be
to amend it to three years.

MR. CALVERT: I would recommend that we

1 approve this project with a three-year expiration
2 date based on the revised drawings before us today,
3 and that there's no loss of wetlands on site based
4 on the mitigation and the in-lieu payment for this,
5 that this be approved.

6 MR. GOOLD: I second.

7 VICE CHAIR MONUMENT: All in favor, raise
8 your right hand.

9 (Response)

10 VICE CHAIR MONUMENT: That's five
11 approvals. Motion is approved.

12 MR. SIMON: Thank you very much.

13 MR. CALVERT: Thank you for your
14 perseverance and change in administrations.

15 MS. MERVINE: I'll send you a follow-up
16 email. Once I receive the proof of mitigation
17 credits, I can issue the permit to you.

18 MR. SIMON: Sounds good. Thank you.

19 VICE CHAIR MONUMENT: Thanks, Amy.

20 Now, moving on. I believe we had some --
21 Patrick had brought up some old business that were
22 action items from the last meeting. Do you want to
23 speak to those?

24 MS. MERVINE: Yeah. I wish I had brought
25 my notes up from where I had taken some. But pretty
26 much one of them was grants and funding that we
27 talked about. We, as a City, don't -- I know I had
28 mentioned somebody. But he does strictly HUD. So
29 he doesn't do any wetlands grants or funding.

30 We could go through City Council and get
31 something. The problem with that is then we need,
32 like, a treasurer, somebody to administer the funds
33 and do all that. So that would be a big process to
34 go through. We'd have to probably discuss that
35 option a lot more.

36 As of right now, the City doesn't have
37 funding for it. One of the staff did say that PPIC,
38 which is the Portsmouth -- I had just written it
39 down, and I didn't bring my notes up.

40 MR. MILLER: Port and Industrial
41 Commission.

42 MS. MERVINE: Yes. That they would do
43 more of the industrial and commercial, that they
44 might have potential funding.

45 MR. CALVERT: For industrial areas --

46 MS. MERVINE: Yeah. More commercial --

47 MR. CALVERT: -- not residential.

48 MS. MERVINE: Yeah. As of right now, I
49 couldn't really find much specifically for

1 residential. It's all private.

2 From my understanding, a lot of the
3 funding would be for public projects, not for
4 private properties.

5 MR. SMITH: So when they redo City Park,
6 if things happen, there is somebody on board the
7 Portsmouth family that could find grants?

8 MS. MERVINE: Yeah. It would be a public
9 project. That's something I could ask the
10 Engineering Department because I know they're the
11 ones kind of heading that project.

12 MR. SMITH: To clarify what you said, if
13 we were to get grant money as a board, we would then
14 need a treasurer?

15 MS. MERVINE: We would need somebody to
16 administer and take care of the funds. I'm not sure
17 of all the technicalities of that. That's something
18 we would have to bring to City Council.

19 MR. CALVERT: I think we're better off
20 talking to the ERP to see how they do it. Norfolk
21 funds them in some fashion, and maybe they can tell
22 us how they set it up.

23 MS. COMSTOCK: Contract of some variety.
24 I don't know what that is.

25 MR. CALVERT: I don't know how the
arrangement is. And then they have someone that
actively goes after grants 24/7. So they are out
there.

MS. COMSTOCK: Elizabeth River Project
partners or has contracted with Virginia Beach,
Norfolk, and Chesapeake. But it's never gotten a
contract with Portsmouth.

MS. MERVINE: I'll take a look into that.

MR. CALVERT: I don't think that's going
to happen.

MS. COMSTOCK: It would be nice to know
what the structure was they used to do that.

MR. CALVERT: I'm meeting with ERP
tomorrow. So I'll talk to them and see if we can
get Barbara to come back one afternoon.

MR. GOOLD: That would be good.

MR. CALVERT: If they have another city
that's trying to get on board, I can't imagine they
wouldn't want to help us out as much as they could.

MS. COMSTOCK: Barbara is Barbara Gavin.

MR. GOOLD: Another thing that was in
minutes mentioned about enhance -- to get more
people on the board. Has any action been taken on
that? We've got a non-active member.

1 MS. MERVINE: Yes. So per our ordinance
2 and looking at the state code, we can have five to
3 seven members. I didn't see any mentions of having
4 alternates. I'm not sure if that's something we can
5 put either in our ordinance or the state code would
6 allow us to have alternates for the board. Stacey,
7 when she was here, she contacted Deborah White, the
8 city clerk, about -- I can't remember her name.

9 MR. CALVERT: Right. Our ghost member.

10 MS. MERVINE: Yes. She's aware she's not
11 been in attendance. I'll have to reach out to her
12 and get the process moving again. But she is aware
13 of her attendance; and, hopefully, we can get
14 someone else in. That would be great.

15 MR. CALVERT: I mean, it's online. All
16 you've have to do is apply. Pretty easy to do.

17 MS. MERVINE: I think the problem is,
18 since we have seven members, we don't even have an
19 open spot to look at the applications. So we would
20 have to -- I'll talk to Deborah. We can get that
21 moving forward.

22 MR. CALVERT: Virginia Beach and Norfolk,
23 they have, like, seven members and, like, nine
24 alternates. It's, like, a group. It's crazy.

25 MS. MERVINE: That's something I wanted to
ask. I know of other boards that do have
alternates, and I was confused why Wetlands Board
does not. I'll talk to Deborah about that.

MR. GOOLD: That's all I had.

VICE CHAIR MONUMENT: I had one thing come
up, Amy, that somebody made me aware of. I just
wanted to know if anyone had reached out to you yet
about the purchase by Portsmouth Redevelopment and
Housing Authority of the properties on High Street
and Honeysuckle Lane on the head of Sterns Creek.
Do you know about this? Or have you heard that they
want to do a senior housing, like 60 apartments
right there at the head of the creek?

MS. MERVINE: Uh-huh. We've received an
application for that. I think when I had -- I had
sent an email when I had an inquiry. Pretty much --
so what they're proposing to do would require use
permits and a rezoning. It will have to go through
Planning Commission and City Council.

VICE CHAIR MONUMENT: That's before it
would even come before the Wetlands Board?

MS. MERVINE: At this time, they're not
including any wetland impacts.

The four lots were subdivided in -- was it

1 2008? So they are considered post-1989 laws,
2 post-2002 laws. So they are not allowed to do any
3 land disturbance, any development, within the
4 100-foot buffer. So that whole 100 foot was going
5 to be protected from the wetlands. So unless they
6 want to do some sort of a water-dependent facility,
7 which I don't think there's enough water there
8 anyway, they wouldn't even be going into the RPA at
9 all. And, thus far, they're not proposing any of
10 that.

11 MR. SMITH: Where on High Street?

12 MS. COMSTOCK: Between Sweetbriar and
13 Woodbine. Right where there's a stoplight and just
14 beyond the entrance to Siesta Gardens, on the other
15 side of the road.

16 MR. SMITH: Just past Cedar.

17 MS. COMSTOCK: Yeah. It's about a half
18 mile past Cedar.

19 VICE CHAIR MONUMENT: It's where the
20 Kroger used to be.

21 Okay. Thank you. Just curious.

22 MS. MERVINE: Yeah. No problem.

23 VICE CHAIR MONUMENT: Do we have any other
24 new business?

25 MS. COMSTOCK: I was able to get some
training on that environmental justice mapping tool.
That is on the ERP site under restoration. One of
the cool things about it is there is a button on
there that you can look at 2020 and then proposed
sea-level rise for 2030 and 2040, in addition to
having layers of income and all the other kinds of
things you can make on this map. And especially
looking at that property, it's going to major impact
in 2030. They'll have no property. But it's a
really interesting tool to play with because it
incorporates the whole Elizabeth River watershed.
Very interesting to have that with what people are
proposing.

MR. SMITH: Are there any tutorials on the
same site on how to use the tool?

MS. COMSTOCK: If you read the directions,
I think you can figure it out. I tried it without
the directions. Not a good idea. But if you go to
all the little "i" buttons, it will tell you. It's
not hard. It's just, you know, I was doing the
thing of, Oh, I think I can do this. I'm not very
good at that. But well worth looking at just in
terms of overview of things I think. Especially
looking at even though we only get a little piece,

1 but to try to get an overall look at what we're
2 doing I think is really important.

3 VICE CHAIR MONUMENT: All right. If
4 there's no other new business, can I get a motion --
5 Oh. Amy?

6 MS. MERVINE: I had a quick comment I
7 would like to make.

8 Since I've been getting more involved with
9 the Ches Bay and the wetlands, I just wanted to
10 bring it up to see how you guys felt about
11 mitigating for both the vegetated and non-vegetated
12 wetlands. It's something I kind of wanted to
13 discuss more with you guys and staff to see what our
14 position is. Because from my understanding, we've
15 only done mitigation for the vegetated; and if it's
16 something you guys are interested in, if we wanted
17 to move forward and start doing mitigation for
18 non-vegetated.

19 MR. CALVERT: Why would we do that?

20 MS. MERVINE: Like, the mudflats. I've
21 been speaking with Ben a little more about this. I
22 think there's some more cities coming through that
23 are starting to do the mitigation because they are
24 beneficial to the wetlands.

25 MR. CALVERT: Yeah. But non-vegetated
wetlands and rock are the same habitat basically.
So Poquoson charges for non-vegetated wetland
impacts. It hammers the citizens. In other words,
if you put riprap in mud, you have to pay for that
impact. So I'm -- as an agent, I'm against it.

VICE CHAIR MONUMENT: I would have to see
some sort of highly specific scientific analysis
that shows me that somehow the state of our mud has
improved over the course of 10 years. Because, I
mean, we've got the Superfund site up the river. I
don't see the -- right now, maybe not. Maybe in the
future when more mudflats are habitable for these
sprout-ups of spartina and things like that. But
right now I would be against it as well.

MR. CALVERT: So to go out of the box a
little bit -- I don't want to put Ben on the spot --
VMRC doesn't charge for that, do they?

MR. NETTLETON: We do not, which is an
awkward spot because we have started telling boards
to do it.

MR. CALVERT: So that's where I'm kind of
like, so...

1 MR. NETTLETON: We're starting to charge
2 for loss of the mudflats where the mudflat is
converted to completely non-tidal area.

3 MR. CALVERT: So we have to pay that
4 anyway. Like, if we put a bulkhead and put sand
fill, we still have to pay that.

5 MR. NETTLETON: Not with a mudflat you
don't right now.

6 MR. CALVERT: I do -- in Virginia Beach
you do.

7 MR. NETTLETON: It's city by city. Not in
Portsmouth.

8 MR. CALVERT: The only place I see we pay
that is if you have a bulkhead and mud you're going
9 over, and you put sand backfill over it, you're
gaining that two foot. Like for Bob's job, in other
words, he would have been hit for that two foot all
the way around.

10 MR. NETTLETON: Correct.

11 VICE CHAIR MONUMENT: I would like a
12 little more clarity about oysters now that they're
coming back so strongly. I know in my backyard I
13 have tons of them now. And it's just popping up all
over the place, which is great. It's on Hoffler
Creek. And I think we just got backwash from the
nature preserve.

14 But on projects like Bob's, you've got
15 that section that has a few that maybe have washed
in, but it's not, you know, it's not an established
reef. But how do we take that into account the next
16 time we get one of these projects?

17 MR. CALVERT: So you're supposed to move
them out of the water column and put them back.

18 And let's be honest. Have you ever worked
with contractors? They're going to do that while
19 you're watching. And then think about it. That's a
daunting task to try and remove -- half of them are
20 dead. So, I mean, I like to be practical at the
same time as being responsible.

21 MR. GOOLD: My answer to your question is
I'm open to being educated if you wanted to make a
presentation.

22 MS. MERVINE: Okay. Yeah. I just wanted
23 to bring it up since it was something that I had
spoken about and just see how you guys kind of view
that part of it. I like this. It's good. I can do
24 more research.

25 MR. SMITH: Are we looking to promote
oysters or vegetation or both with this?

1 MS. MERVINE: Either/or. Like I said,
2 this is more open for discussion on if we want to
3 start doing any sort of mitigation credits or
4 anything for non-vegetated.

5 MS. COMSTOCK: I don't know enough to have
6 an opinion.

7 MS. MERVINE: Fair enough.

8 MR. CALVERT: I would like to see the City
9 kind of help out with some of this wetlands before
10 they start charging for more wetlands.

11 MS. MERVINE: Fair enough.

12 MR. CALVERT: We're an impoverished
13 community that economically we could really use some
14 help.

15 MR. SMITH: That could actually dissuade
16 homeowners from pursuing a project if it's going to
17 cost them even more money.

18 VICE CHAIR MONUMENT: Correct. As we saw
19 with this project, the deferred maintenance is just
20 going to cost more in the long run and cause more
21 erosion.

22 MR. CALVERT: There's another thing you
23 guys got to understand, too, about the City of
24 Portsmouth. Once you get approval from us and you
25 have to come back in and complete this project, they
will make you pay for your access route for your
equipment. So the job that Bob just showed us, if
they do that by land, they have to pay for the
encroachment on a 10-foot path all the way around
that entire thing and then replant it. And
Portsmouth is the only City that does this. And it
is a hardship.

I'm telling you right now. Doug, when he
did his project, ask him how much the vegetation
was. And it wasn't any impact. It was only where
the equipment and the contractors traveled on the
grass to put rock over a wall. And it was an
excessive \$15,000 in landscaping on top of the cost
of the job. And all the other Cities don't charge
that.

So that's something that I don't think
that the Wetlands Board realizes is, that once it
leaves us, there's a really big financial burden for
development in Portsmouth.

MR. SMITH: So if I'm hearing you right,
the two choices are bring in the materials and doing
the work by water or doing it by land. But the City
imposes such hefty fees to do it by land that
perhaps water may be cheaper? Or close to --

1 MR. CALVERT: Yes. Not only the impacts,
2 it's the landscaping. You're talking 30 trees, 20
shrubs, a tremendous amount of planning depending
upon the impact.

3 VICE CHAIR MONUMENT: I had heard from
4 someone else that the tree planting was excessive,
that it was something like 30 trees in a half-acre
yard that they had been asked to plant.

5 That to me, first of all, it's not
healthy. What kind of trees are you going to plant
6 30 trees, like an apple orchard? What is going to
grow there on the water? And spaced out correctly
7 for the tree, to give you 30 trees.

8 MR. CALVERT: And here's another --

9 VICE CHAIR MONUMENT: And then the City
doesn't pay you to maintain it. So any time you
have branches down or have to have an arborist come
in and maintain the tree, the City's not -- the City
10 only makes you plant it, but the City doesn't
maintain it.

11 MR. GOOLD: It sounds like we've finished
with our Wetlands Boards business.

12 MR. CALVERT: This is true. I'm letting
you know the cost associated with it.

13 MS. COMSTOCK: We've got uplands now.

14 VICE CHAIR MONUMENT: He's saying that
maybe paying for mud is a hard sell.

15 MR. CALVERT: Well, I'm just saying
that --

16 MS. MERVINE: I understand that.

17 MR. CALVERT: I'm just saying that
business in Portsmouth is expensive when it
shouldn't be. We need all the economic development
we can get. I'd just like to see the burden
18 lessened for our citizens. That's all. I'm not
saying anybody is right or wrong. But it's quite a
19 fee.

20 VICE CHAIR MONUMENT: If our business is
concluded, can I get a motion to adjourn?

21 MR. GOOLD: So moved.

MS. COMSTOCK: Second.

22 VICE CHAIR MONUMENT: All in favor?

(Response)

23 VICE CHAIR MONUMENT: This meeting is
adjourned. Thank you.

24 (Meeting adjourned at 4:56 p.m.)

25

1 COMMONWEALTH OF VIRGINIA AT LARGE, to-wit:

2

3 I, Kimberly A. Watrous, Registered Professional
4 Reporter, a Notary Public for the Commonwealth of
5 Virginia at Large, of qualification in the Circuit
6 Court of the City of Norfolk, Virginia, do hereby
7 certify that this proceeding was recorded in
8 Stenotype by me and reduced to computer printout
9 under my direction; and that the foregoing
10 constitutes a true, accurate, and complete
11 transcript of such proceedings.

12 I further certify that I am not related to nor
13 otherwise associated with any counsel or party to
14 this proceeding nor otherwise interested in the
15 event thereof.

16 Given under my hand and notarial registration
17 number on October 21, 2022, at Norfolk, Virginia.

18

19

20



21

Kimberly A. Watrous, RPR
Notary/eNotary Reg. No. 195088
My commission Expires 09-30-26

22

23

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25