

STAFFORD COUNTY CHESAPEAKE BAY BOARD MINUTES

November 16, 2015

The regular monthly meeting of the Stafford County Chesapeake Bay Board of November 16, 2015, was called to order at 7:30 p.m. by Chesapeake Bay Board Chairman, Jim Riutta, in the Board of Supervisors Chambers in the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Jim Riutta, Mary Rust, Andy Pineau, Ben Rudasill, Sam Hess

MEMBERS ABSENT: N/A

STAFF PRESENT: Amber Forestier, Jeff Harvey, Joseph Fiorello, Denise Knighting

GUEST PRESENT: Clark Leming, Leming & Healy
Mr. Avi Sareen, Environmental Engineer
Reverend Mark Miller, Ebenezer United Methodist Church
Mr. Robert Pence, The Pence Group
Ms. Joan Salvati, DEQ
Mr. Daniel Moore, DEQ
Mr. Clayton Tock, Urban Engineering

ROLL CALL

Mr. Riutta called roll and it was determined there was a quorum with all five members present. He asked if there were any Declarations of Disqualification, hearing none he moved on to public presentations. With no one coming forward he moved on to the approval of minutes.

DECLARATIONS OF DISQUALIFICATION

None

PUBLIC PRESENTATIONS

None

APPROVAL OF MEETING MINUTES

1. October 19, 2015

Mr. Hess made a motion to approve the minutes.

Mr. Pineau seconded.

The motion passed 5 -0.

PUBLIC HEARINGS

2. CBB15-02 - Mr. Clark Leming, applicant, is requesting a special exception under §27B-14 of the Stafford County Chesapeake Bay Preservation Area Ordinance from the requirements of §27B-7 "Development Conditions" and §27B-8(2) "General Performance Criteria" of the Chesapeake

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Bay Protection Area Ordinance in order to allow the disturbance of the Critical Resource Protection Area ("CRPA") and associated buffers on Tax Map Parcel No. 20-130.

Ms. Forestier gave the staff presentation explaining that the applicant was Mr. Clark Leming for Robert Frank Pence of the Pence Group Inc. She stated that the parcel 20-130 was off of Garrisonville, close to Onville Road. She stated that the request was for a special exception under Section §27B-14 of the Stafford County Chesapeake Bay Preservation Area Ordinance from the requirements of §27B-7 "Development Conditions" and §27B-8(2) "General Performance Criteria" of the Chesapeake Bay Protection Area Ordinance in order to allow the disturbance of the Critical Resource Protection Area ("CRPA") and associated buffers with the proposed Stafford Village Center on Tax Map Parcel No. 20-130. Ms. Forestier presented the Generalized Development Plan (GDP) which had been approved by the Board of Supervisors (BOS) on October 20, 2015 as part of a rezoning application. She added that there were 5 required findings for granting a special exception under the Chesapeake Bay regulations which were that granting of the exception would not confer upon the applicants any special privileges denied by the Chapter to other property owners or subject to its provisions and who were similarly situated; the request was not based on any conditions or circumstances that were self-imposed, nor could it arise from conditions or circumstances either permitted or non-conforming that were related to adjacent parcels, the request further had to be the minimum necessary to afford relief; the request was to be consistent with the purpose and intent of the Chapter, not injurious to the neighborhood or otherwise detrimental to the public welfare, and was not of substantial detriment to water quality; and lastly reasonable and appropriate conditions would have to be imposed which would prevent the request from causing a degradation of water quality. She presented a map to the Board showing the proposed impacts explaining that 3.5 acres of CRPA buffer would be impacted. She further explained that the site contained a total of 12 acres of CRPA buffer. She stated that the western stream would also be impacted, bringing the total impacted area up to 8.76 acres out of 12, leaving a remainder of 3.24. Ms. Forestier stated that if the Board was inclined to approve the request as submitted, staff would recommend following conditions:

1. The limits of the CRPA buffer encroachments shall be as shown on the approved impacts plan dated September 18, 2015.
2. On-site areas of CRPA buffers which are not converted to impervious surfaces shall be replanted per the guidelines in the Riparian Buffers Modification & Mitigation Guidance Manual and include a maintenance plan.
3. Mitigation shall be required for all of the CRPA buffer encroachments. The MWQIA includes a preliminary replanting list, but it only covers 3.5 acres, not the full 8.76 acres. Mitigation on-site is not possible. The applicant had previously suggested to staff that a fund could be created to restore stream buffers on land owned by the County and maintained by Parks and Recreation. The applicant shall either contribute funds to the County for stream buffer creation or provide appropriate off-site mitigation within the Whitson's Run watershed.

Mr. Riutta asked Mr. Leming to respond.

Mr. Leming introduced himself as well as the Environmental Engineer, Mr. Sareen and the property owner representative, Reverend Mark Miller. Mr. Leming asked the Board what the time limit was for his presentation since there were currently no by-laws.

Mr. Riutta stated that the Board was flexible.

Mr. Leming explained that the project had been going on for a little over 2 years, starting when the church inherited the property. He stated that the church had went through a lengthy and detailed process

in figuring out what to do with the property and finally decided to sell the property and use the proceeds to advance their mission on Embrey Mill Road. Mr. Leming stated that the applicant had proceeded with multi-faceted applications before the County and DEQ, the Army Core of Engineers, as well as partly the EPA. Giving some history on the developer, the Pence Group, Mr. Leming explained that Mr. Robert Pence was also the developer of the Stafford Market Place and had an established relationship with the County, as well as 35 other projects in Northern Virginia, including Dulles Expo Center, Potomac Run Shopping Center, Battlefield Shopping Center, etc. Mr. Leming stated that the Pence Group did high quality work. He further stated that Stafford Marketplace continued to be Stafford's premier shopping center which had to overcome significant environmental and transportation related obstacles. Mr. Leming stated that the property had been rezoned to the P-TND district, which imposed certain conditions, one being a proffered GDP. Mr. Leming explained that the applicant had also submitted a Comprehensive Plan Amendment for the purpose of bringing the proposed use of the property into full conformity with the County's Comprehensive Plan, which was approved by the BOS in September. Mr. Leming stated that the property was essentially to be treated as an in-fill property due to the neighboring uses which were townhouses, single-family, as well as commercial. He also stated that a CUP had been approved on the property for fuel sales, which he felt was irrelevant to the Chesapeake Bay Board's (CBB) consideration. Mr. Leming stated that for in this particular case the rezoning application and the environmental permits were applied for simultaneously, the DEQ permit in particular. He added that the impact plan that was before the CBB had already been approved by DEQ. Mr. Leming stated that settlement for the property was pending until CBB approval. Mr. Leming pointed out that in going through this process of trying to get the property developed there had been multiple complementary and cross-cutting reviews on all levels of government. He added that the developer was also trying to coordinate plans with the state and county regarding their improvements to Garrisonville Road which was along the frontage of the property. Mr. Leming reiterated that he had done this type of special exception previously which was heard before the Board of Zoning Appeals (BZA) and that the issue there had been a perennial stream which lead right through the center of the property. Mr. Leming stated that the applicant, Vulcan Materials, in that case had proposed to relocate the stream in its entirety which eliminated about 9.5 acres of CRPA. He added that the stream was relocated to the western edge of the property into an open culvert that had been approved for the relocation. Mr. Leming explained that his and the applicant's position in that case had been that the CRPA had become somewhat irrelevant since the stream was no longer there. He stated he felt that if a stream was underground that there was no associated CRPA which staff did not agree with. Mr. Leming referenced the first condition of an approval as read by Ms. Forestier, adding that he was not entirely sure what similarly situated meant in this context. He stated that the Vulcan Materials application had been approved by the BZA. Referencing minutes of a variance hearing before the BZA provided to the CBB, Mr. Leming pointed out that the provision was mentioned that there had to be a hardship, such as not being able to use the land otherwise. Mr. Leming understood that this provision was not part of the CBB criteria, and was also not part of the criteria in the Vulcan case before the BZA. He did however point out that according to the minutes presented the BZA did deny the Stafford Nursing Home application because a hardship could not be established. He further pointed out that the Stafford Nursing Home GDP did not show the CRPA impacts, but this one did. Mr. Leming referenced the letter provided to the Chairman concerning guidance issued by Chesapeake Bay Local Assistant Department (CBLAD) who used to provide guidance to localities before DEQ took over. Mr. Leming stated that there were different parts to DEQ, with one part for approving permits involving perennial streams and the other part for providing guidance on CRPA. Mr. Leming reiterated that according to CBLAD's condition number 1 meant that an application could not be approved if similar applications for similar situations had previously been denied for other applicants. Referencing the second condition, Mr. Leming felt that this clause was not applicable. He felt that the property was as it was containing those streams that the applicant was contending with and trying to work around. Mr. Leming added that there

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would have to be common access points within the development and VDOT would not allow for multiple locations. He stated that the property was divided by the stream but due to the DEQ permit the issue was largely resolved. Mr. Leming stated that the western stream stayed mostly underground and only surfaced in few locations toward the southern portion of the property. He added that according to DEQ the stream had already been pretty seriously compromised which is why the applicant was given more flexibility by DEQ. He stated that DEQ asked the applicant to focus on preserving the stream to the east, which the applicant was trying to accomplish. Going back to the provision that the conditions were not to be self-imposed, Mr. Leming explained that staff felt they were by choosing this particular project. Mr. Leming felt that this project was necessary in order for the development to be profitable but beyond that he felt that is not what the term "self-imposed" was referring to. Mr. Leming stated that according to the Supreme Court this language referred to cases where the zoning ordinance was violated and a variance became necessary as a result of the violation. Mr. Leming pointed out that on the subject property there has been no violation to the zoning ordinance other than when the County put in a trunk line which caused the creek to go underground many years ago. Referring to the third condition, Mr. Leming stated that staff suggested doing a smaller development which was not feasible in his opinion and that the proposed development was not only what was allowed within that zoning district, but also the minimum necessary to have a feasible project. In reference to condition number four, Mr. Leming stated that the BOS in the approval of the rezoning specifically found that the project was in the interest of the public welfare. He explained that this was one of the findings they had to make when acting on a rezoning application. Regarding the water quality, Mr. Leming stated that a major water quality impact assessment had been done and has been available to staff for a couple of months. He stated that according to the report, the nutrients would actually be reduced and the water quality enhanced.

In regards to condition number 5 which talked about imposing reasonable and appropriate conditions to prevent degradation of water quality, Mr. Leming stated that he and the applicant fully expected such conditions. He stated that he had no issues with the first two development conditions staff suggested, but did not agree with condition number 3, where the developer is asked to mitigate for 8.76 acres instead of the 3.5 acres which were the post-construction conditions. He explained the issue he had with that was, number 1 - that was not what the developer had been asked to do, and number 2 - it was not what DEQ had approved regarding the streams. Mr. Leming felt it was logical that the CRPA that was adjacent to the below ground streams was no longer relevant and didn't serve a useful purpose any longer. Mr. Leming asked for the CBB's consideration in this matter. He pointed out that the applicant was up against a timeframe he did not have much control over which had to do with the contract with the church. He asked the CBB to be mindful of the timeline which was a result of a lengthy rezoning process.

Mr. Riutta opened the floor to the general public.

Mr. Miller stated that he was the pastor of Ebenezer United Methodist Church and explained that the church had been in Stafford since 1856 and has grown since to a church of over 2,300 members. He stated that the property was left to the church by two former church members. Mr. Miller stated that in trying to figure out what to do with the property a historical inventory of the property had been conducted with the help of the Historical Commission (HC). In looking at all the options, he added, the church decided to partner up with a developer to build something that would benefit the whole community. According to Mr. Miller numerous conversations with a number of developers had taken place, but the Pence Group was ultimately chosen as the church felt that they understood the value of community and shared the interest in adding value to the community. Mr. Miller felt that the Pence Group built attractive and environment friendly projects and also had a great reputation for following through on their commitments in a professional yet personal level. Mr. Miller encouraged the CBB to give favorable consideration to this project.

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With no one else coming forward, Mr. Riutta closed the public comment portion and brought the matter back to the Board.

Mrs. Rust inquired if a representative from the Environmental Water Quality Department was present.

Ms. Forestier introduced Ms. Salvati and Mr. Moore from DEQ.

Mrs. Rust asked if there were any newer reports than the one provided in the package which was dated May 2015.

Ms. Salvati stated that there had been several conversations with Ms. Forestier and Mr. Harvey. She added that they did look at the Water Quality Impact Assessment (WQIA) which contained a lot of good information, but still came to the conclusion that the WQIA did not have adequate information upon which the DEQ would be able to make a formal recommendation. She clarified that the reason was that there was discussion regarding of stormwater quality within the assessment and apparently there was some kind of preliminary stormwater management plan, but according to staff there was no final stormwater management or erosion and sediment control plan had been submitted as of yet. She explained that the full impact of the development could not be determined without those.

Mr. Hess stated that according to Mr. Leming a DEQ permit had already been obtained.

Ms. Salvati explained that there were two separate issues at hand, two separate sections of state code. She stated that one addressed specifically a certain kind of wetlands, non-title wetlands and that it was under that code that the northern DEQ office issued a permit. She added that under their criteria, pursuant to that code, the DEQ office felt that it was appropriate for the developers to fill in the streams in that area. Additionally, she explained that the Bay Act was a completely separate section of the code. Ms. Salvati pointed out that the permit was a Virginia Water Protection Permit (VWP Permit), in other words a wetland permit and specifically stated that any local Chesapeake Bay Preservation Ordinance would still have to be complied with. Ms. Salvati clarified that the CBB would have to make two decisions, one was whether an encroachment into the RPA would be granted and the other was whether they would allow the filling of the streams which was being proposed.

Mr. Pineau reiterated that according to correspondence between staff and DEQ there were three points in which DEQ required more information. He added that DEQ asked for a stormwater plan, a full site plan for the entire project, as well as a narrative that covered three phase 3 requirements which dealt with reducing impervious cover, reducing land disturbance, and preserving indigenes vegetation. He further inquired if those points still needed to be addressed with DEQ.

Ms. Salvati affirmed.

Mrs. Rust inquired whether DEQ would not approve a permit until those three items were provided.

Ms. Salvati explained that the decision was not for DEQ to make, but for Stafford County. She added that DEQ simply responded to staff's request for guidance and are strictly advisory in this case.

Mrs. Rust pointed out that in DEQ's response from May 2015 the very last sentence stated that this project would not be consistent with the Chesapeake Bay Preservation Act and the regulations and she felt that this statement did have weight to the CBB.

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Mr. Pineau stated he was uncertain whether the additional 5.2 acres should be accounted for.

Mr. Leming stated that the plan that had been reviewed which led to the May 2015 letter was one that had been prepared in February of 2015 and that there had been many iterations of the plan since. He further stated that the items requested by DEQ would not be done till after a settlement on the property. He explained that the site plan would be the first land use application submitted after the rezoning, which was a 6 month to 1 year process and that the stormwater plan came in conjunction with that. Mr. Leming pointed out that there was no requirement under state law for these items to be produced in order to obtain a special exception. He clarified regarding the DEQ permit, stating that the permit in fact gave the developer authority as to what they could do to the streams so long they complied with the conditions of the permit. He stated that one of the requirements of the permit was to come before the CBB. Mr. Leming clarified that his position was that if a stream was piped or filled, there would no longer be a CRPA.

Mr. Riutta asked staff if they were looking at the ability of filling in based on one set of ordinance that did not fall under CRPA.

Mrs. Forestier explained that the wetlands permit did not exist by itself but was a piece of a larger puzzle. She added that when looking at a site plan, the site plan would have to meet all codes that applied to it. She further stated that a stream could not be piped or filled without obtaining an erosion and sediment control plan. As part of the review, Mrs. Forestier explained, she would look at RPA prior to approving the site plan.

Mr. Harvey stated that no matter how it was calculated what the impacts were, bottom line was, there would be 3.34 acres of RPA left on the property post development.

Mr. Riutta stated that the CBB understood that there would be 3.34 left, but they were concerned about the westerly stream which was currently not being counted. Mr. Riutta asked for conformation that DEQ approval would not automatically give them permission to fill the stream.

Mrs. Forestier affirmed.

Mr. Hess inquired what the GDP approved by the BOS allowed the developer to do.

Mrs. Forestier explained that the site would have to be built out in general conformance with that plan.

Mr. Hess further inquired what role DEQ had. Ms. Forestier explained that they had a permit for a certain amount of impacts, to include filling of streams.

Mr. Riutta pointed out that the CBB was asked to make a decision based on future unknowns and that the developer needed to know if he could develop the property as proposed before purchasing the property.

Mr. Leming stated that the developer would have to develop the site according to the GDP, and that any significant deviation would require them to go back through the rezoning process which was a very lengthy process. He further stated that the applicant needed approval from the CBB to proceed as previously authorized by the BOS.

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Mr. Riutta stated that he would like to see additional information, but from his understanding Mr. Leming implied that the gathering of this information would stretch beyond the time table.

Mr. Leming pointed out that the applicant so far had spent hundreds of thousands of dollars on this process and that the site plan was another big ticket item. Mr. Leming insisted that the CBB was given as much detail as possible and that it was the same information that was provided to DEQ when the applicant obtained the permit. Mr. Leming stated he did not want to risk going through the costly site plan application just to get denied by the CBB, and possibly having to go through the rezoning process again.

Mr. Riutta stated that he felt that the approval from the CBB was sought at this point simply to facilitate the sale of the property.

Mr. Leming disagreed and stated that the focus was on implementing what was approved by the governing body. Mr. Leming asked the CBB to appreciate the process that the applicant has been through. He explained that there were so many approvals and things that had to be accomplished in order to get to a point where a sound business decision could be made. He stated that the CBB was only one piece of it. He further stated that the environmental process had been substantial. Mr. Leming suggested the CBB hear Mr. Sareen to get an idea of what was taken into account and what level of detail had been analyzed.

Mr. Sareen introduced himself as the president of TNT Environmental and the person who prepared the WQIA. Mr. Sareen understood that stormwater was a critical issue from the CBB's and DEQ's perspective, but he did want to point out firstly that he had been in contact with staff back in March of 2015 and was urged to get a MQIA submitted. In his opinion, if the plan had been submitted back in March, April, or May it would look quite different from what it was now, because the plan went through about a half a dozen of iterations during the first quarter of 2015. Mr. Sareen further pointed out that all of the locations for the stormwater ponds, the various features and everything that would treat stormwater from were oversized by about 10%. He added that at the point of preparation of the stormwater plan everything would probably be downsized as there were constraints imposed by the wetland permit. Mr. Sareen stated that there were narratives contained within the WQIA that specifically addressed stormwater and water treatment, as well as water quality post construction and based on those preliminary numbers it appeared that there would be a removal of about 72% more than what was currently being treated on the site currently.

Mr. Pineau stated that there were 2 points in which the east tributary was covered by what appeared to be roadways, as well as retail stores, two parking lots, and two roadways on the western tributary and that he needed to get clarification on how each area with impervious cover was being dealt with.

Mr. Sareen stated that in the west the existing hydrology would be picked up along the western property boundary in a culvert and would be released behind the large store back into the existing channel. He added that it would travel a few feet before going subterranean through the sanitary line. Mr. Sareen explained that on the north-eastern side there would be fill associated with Garrisonville Road widening project, which took care of the top part of the impact. He added that the pipe would come up just north of the second road crossing. He explained that there would be no footings in the stream and the stream would be allowed to flow freely all the way through the site on the eastern side until it gets picked up in a pipe at the southern boundary and directed under the residential development to the south.

Mr. Riutta inquired about the options regarding mitigation and the difference in acreage.

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Ms. Forestier stated that staff did not agree with the determination that the DEQ permit for wetlands impacts got rid of the RPA on that stream, meaning from staff's point of view as well as state's point of view all of the RPA would have to be mitigated for. She felt that saving the 3.35 acres on site could only be considered saving what was already there and could not be considered mitigation.

Mr. Leming stated that Mr. Pence had just indicated that he would mitigate the 5.26 acres and would submit a plan in compliance with the regulations to be reviewed by staff.

Ms. Forestier added that staff would like to recommend a condition for the impacts plan to be updated showing the additional RPA.

Mr. Sareen inquired whether a revised map would be sufficient or whether staff required the entire document to be revised.

Ms. Forestier recommended revising the entire document.

Mr. Sareen stated that if this was to be a condition he wanted to make sure the true number was being recorded, which was 5.087 of additional acres.

Ms. Forestier also inquired what form of mitigation would be utilized for the buffer.

Mr. Sareen replied that there had been discussions previously about possibly partnering with the County in finding a park site, a stream restoration site within the county. He reiterated that Ms. Forestier had indicated that there was a possibility of some projects coming up that would require assistance with re-vegetation. He stated that contributing to a fund was also an option, equaling 5,500 plants.

Mrs. Rust stated she was concerned with hard surfaces as well as runoff from the site. She inquired if there was phasing for the development and whether the commercial would go in first.

Mr. Leming explained that under the proffers there was a portion of the commercial (about 200,000 square feet) that was required to be constructed before significant residential could happen. He added that a project like this would have to be phased.

Mrs. Rust pointed out there would be water runoff from phase I which would not be beneficial to any sewers from phase I and that phase II would not happen right away. She inquired if the mitigation would take place during phase II.

Mr. Tock stated that stormwater management would be put in as needed to treat the impervious area as it was built. He added that at least one of the stormwater ponds would go in during phase I.

Mrs. Rust inquired why the pond was labeled as potential.

Mr. Tock explained that they were not sure whether they would do a regular pond or an underground vault.

Mr. Leming stated that he understood that stormwater was relevant to the CBB's consideration, but reminded that there was a full process that they would have to go through regarding stormwater management. He did ensure that there would be sufficient stormwater management with each phase.

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Mrs. Rust suggested incorporating some sort of vegetation to help absorb some of the runoff.

Mr. Leming stated that the transitions between phases were intended to be seamless and that staff would ensure that the stormwater plan worked in all phases.

Ms. Salvati offered an observation which might get to some of the CBB's concerns. She brought up the runoff reduction method. She explained that when a developer went through all of the stormwater criteria there was a spreadsheet called the site tab which was the engineer's opportunity to identify where the open space was, as well as RPAs, and impervious and pervious surfaces. She stated that some of the Board's concern might be resolved through that process.

Mr. Tock added that reduction calculations had been run and that the requirement was exceeded by about 5 percent.

Mr. Riutta inquired who would make sure that the streams had the ability to absorb the runoff.

Ms. Forestier stated that the stormwater management review had certain criteria regarding the quality of the water once it left the site, but she did not remember the exact value.

Ms. Salvati added that it was 0.41 pounds per acre per year, but that the Bay Act also had a requirement to reduce impervious cover in general.

Mr. Rudasill felt that the real question was whether piping the stream would compromise the water quality. Mr. Hess pointed out that apparently approval had already been given by Woodbridge DEQ.

Mr. Rudasill made a motion to approve the application with the revised conditions.

Mr. Harvey suggested staff reiterate the revisions of the conditions based on the discussions. He summarized the conditions as follows:

- Limits of CRPA buffer encroachments shall be as shown on the approved impacts plan dated September 18th, 2015 and modified map to reflect removal of CRPA on the western stream segment
- On site areas of CRPA buffers which were not converted to impervious surfaces shall be replanted per the guidelines of the riparian buffers modification and mitigation guidance manual and include a maintenance plan
- Mitigation shall be required for all of the CRPA buffer encroachments; the MWQIA shall include a preliminary replanting list for the full 8.76 acres of encroachment
- The applicant shall either contribute funds to the county for stream buffer creation or provide appropriate off-site mitigation on county owned property or other property within the county

Mr. Riutta inquired whether there was a formula that could be used to come up with an exact amount for the mitigation.

Ms. Forestier explained that there was not one and that the developer would have to follow the guidelines in the riparian manual which dictated certain numbers of different types of vegetation be put in. She added that there was no security in place for landscaping.

Mr. Leming suggested for the mitigation to be required at a particular point like at the time of site plan approval for example.

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Mr. Rudasill repeated his motion with the addition of conditions as stated by Mr. Harvey.

Mr. Hess seconded the motion. The motion passed 4 – 1 (Ms. Rust voted nay).

UNFINISHED BUSINESS

3. Update to the Board by-laws

Ms. Forestier reiterated that the original change that staff made was to have the order of meetings changed and some specific times put it. She stated that the suggestion was for the Wetlands meeting to start at 6 p.m., Sandy Beaches and Dunes Board/Coastal Primary Sand Dunes meeting at 6:30 p.m., and Chesapeake Bay Board meeting at 7:00 p.m.

Ms. Forestier stated that Mr. Harvey made some additional suggestions under Article 5, Motions and Voting, suggesting to remain at 3 members of a 5 member Board for approval of a permit application rather than 4 out of 7.

Mr. Harvey further suggested the Board consider rewording the provision. He explained that currently it called for 3 of 5 voting affirmative to approve an application and suggested that it should probably read that the majority of the members present shall constitute approval of a motion. Mr. Harvey further explained that under the current provision, if for some reason the Board could not get three votes due to not all members being present for example, the vote would essentially count as a denial and would force an appeal.

Ms. Rust reiterated that there had been discussion regarding getting an additional board member which would help in her opinion.

Ms. Forestier stated that two alternate positions had already been created, but have not been filled yet.

The Board agreed to change the by-laws to read “shall require the affirmative vote of a majority of members present”.

Ms. Forestier further suggested removing Article 6, which dealt with violations and Article 7, because the violations were already covered under the code. She further suggested removing the provision regarding member attendance and a member’s removal by the Board of Supervisors if they were not in attendance 75% of the time. Ms. Forestier explained that it was the Board prerogative to remove any member, at any time, for any reason.

Mr. Harvey stated that if the Board found the changes to be acceptable, staff would bring the changed by-laws back to the Board at its next meeting for a final vote.

Mr. Riutta affirmed.

NEW BUSINESS

None

CHAIRMAN’S REPORT

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None

STAFF REPORT

Ms. Forestier stated she currently did not have any applications outstanding and that there would not be a meeting in December as a result of that. She further pointed out that the January and February meetings generally occurred on a holiday which is why the Board might want to consider moving the dates up one week.

Mr. Pineau made a motion to change the schedule for January from the 18th to the 11th as suggested by Ms. Forestier.

Ms. Rust seconded the motion.

The motion passed 5 - 0.

ADJOURNMENT

Mr. Hess made a motion to adjourn.

Mr. Rudasill seconded.

The motion passed 5 - 0.

With no further business to discuss, the meeting was adjourned at 9:23 p.m.