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DEPARTMENT OF
PLANNING AND ZONING

A. Paul Burton
Interim County Attorney

COUNTY of ISLE OF WIGHT
Office of the County Attorney

Mark C. Popovich
Assistant County Attorney

MEMORANDUM

PRIVILEGED AND CONFIDENTIAL

TO: SANDY W. ROBINSON, SECRETARY, WETLANDS BOARD

FROM: A. PAUL BURTON, INTERIM COUNTY ATTORNEY *APB*

DATE: SEPTEMBER 29, 2010

RE: ISLE OF WIGHT COUNTY WETLANDS BOARD BY-LAWS

Attached please find the Isle of Wight County Wetlands Board By-Laws that have been approved by the Board of Supervisors at their meeting of September 23, 2010. I would ask that you present this to the Wetlands Board for their approval. Please forward an executed copy to our office once it has been fully endorsed.

Should you have any questions regarding the enclosed please do not hesitate to contact me.

Attachments

ISLE OF WIGHT COUNTY WETLANDS BOARD

BY-LAWS

ARTICLE I

SECTION 1.1. CREATION.

The Isle of Wight County Wetlands Board was created by the Isle of Wight County Board of Supervisors on January 3, 1974 pursuant to Title 28.2, Chapter 13, Article 2 of the Code of Virginia (1950, as amended).

SECTION 1.2. NAME.

The official name of the Board is the Isle of Wight County Wetlands Board hereinafter referred to in these By-Laws as the Wetlands Board.

SECTION 1.3. RESPONSIBILITIES.

The Wetlands Board shall be responsible, as set forth the Code of Virginia, Section 28.2-1303 (1950, as amended) and in Section 17-10 of the Isle of Wight County Code, for preserving and preventing the despoliation and destruction of wetlands within Isle of Wight County while accommodating necessary economic development in a manner that is consistent with wetlands preservation.

ARTICLE II

SECTION 2.1. APPOINTMENT.

The Wetlands Board shall consist of five (5) residents of Isle of Wight County who shall be appointed by the Board of Supervisors of Isle of Wight County.

SECTION 2.2. TERMS.

The terms of the members of the Wetlands Board shall be five (5) years commencing with the date of appointment by the Board of Supervisors. Members may serve successive terms.

SECTION 2.3. ALTERNATE MEMBERS.

Pursuant to Section 28.2-1303(A) of the Code of Virginia (1950, as amended), the Board of Supervisors shall appoint at least one (1) but not more than three (3) alternate members who shall have the same qualifications as set forth in Section 2.1 of this Article II. Such

alternate member shall be called upon by the Chairman to serve in place of an absent member as provided for in Section 3.2 of Article III below.

ARTICLE III

SECTION 3.1. ELECTION OF OFFICERS.

Annually, at the regular meeting of the Wetlands Board held in the month of February of each year, the Wetlands Board shall elect a Chairman and a Vice-Chairman and shall appoint a Secretary. All officers may succeed themselves. The terms of the office of each officer shall begin with the February meeting. Nominations of officers shall be made from the floor and a candidate receiving a majority vote of the membership of the Wetlands Board in attendance and voting at said meeting shall be declared elected and shall take office immediately and serve until his successor shall take office. Vacancies in office shall be filled immediately by regular election procedures.

SECTION 3.2. DUTIES OF CHAIRMAN.

The Chairman shall preside at all meetings of the Wetlands Board and at other meetings and public hearings called by the Wetlands Board. He shall call special meetings of the Wetlands Board when required, and shall transmit reports, plans and recommendations of the Wetlands board to the appropriate governing authority, and, in general, shall act as spokesman for the Wetlands Board. The Chairman is specifically authorized to cast a vote on all motions made and duly seconded. The Chairman shall also call upon the alternate member to serve in place of any absent member at any regularly scheduled Wetlands Board meeting, pursuant to Section 28.2-1303 of the Code of Virginia.

SECTION 3.3. DUTIES OF VICE-CHAIRMAN.

The Vice-Chairman shall serve as Chairman in the absence or the disability of the Chairman. In the event of the death or resignation of the Chairman, the Vice-Chairman shall perform the latter's duties until such time as the Wetlands Board shall elect a new Chairman.

SECTION 3.4. DUTIES OF SECRETARY.

The Secretary shall assist the Chairman in the preparation of the agenda for Wetlands Board meetings, shall prepare and send out notices for regular and special meetings, shall prepare and distribute minutes of Wetlands Board meetings and shall establish and maintain the Wetlands Board's files.

SECTION 3.5. ADDITIONAL DUTIES.

The Chairman, Vice-Chairman and Secretary shall perform such other duties and functions as may from time to time be required by the Wetlands Board or by these By-Laws.

ARTICLE IV

SECTION 4.1. REGULAR MEETINGS.

When necessary, meetings of the Wetlands Board shall be held on the third Monday of each month at 7:00 p.m. in the Board of Supervisors Room, Isle of Wight County Courthouse, Isle of Wight, Virginia, provided that if this should be a legal holiday, the meeting shall be held at the same time and place on the following Monday night. Each member shall be notified of each regular meeting at least five (5) days prior to the meeting by written agenda prepared by the Secretary to the Wetlands Board.

SECTION 4.2. SPECIAL MEETINGS.

Special meetings of the Wetlands Board may be called at any time by the Chairman or in the absence or unavailability of the Chairman, by the Vice-Chairman. The Secretary shall mail to all members, at least five (5) days in advance of a special meeting, a written notice, fixing the time and place of the meeting and the purpose thereof. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting. Notice of special meetings shall be given to the public as set forth in the Code of Virginia, Section 2.2-3707 (C) and (E) (1950, as amended).

SECTION 4.3. CANCELLATION.

Whenever there is no business of the Wetlands Board, the Chairman may dispense with the regular meeting by giving notice to all members at least two (2) days prior to the time set for the meeting, provided that the Wetlands Board shall meet at least twice per year.

SECTION 4.4. QUORUM; MAJORITY VOTE.

A majority of the members shall constitute a quorum. In the absence of a quorum, the only matters which may be addressed are a motion to recess; motion to fix the time to which to adjourn; and motion to adjourn. No action of the Wetlands Board shall be valid unless authorized by a majority vote of those present and voting.

SECTION 4.5. ORDER OF BUSINESS.

The order of business at regular meetings shall be as follows:

1. Call to Order

2. Roll call and determination of a quorum
3. Announcement of "Sign-up Sheet for Comments"
4. Determination that public hearing items have been properly advertised
5. Action on requests to withdraw or table pending agenda items
6. Reading of policy statement outlining the basis for the Board's decision on public hearing matters
7. Public hearings
 - a. Reading of the application
 - b. Public hearing opened
 - c. Applicant presentation
 - d. Questions from the Board
 - i. Time required for completion of project
 - e. Staff comments
 - f. VIMS report admitted to record
 - g. VMRC comments
 - h. Persons to speak in favor
 - i. Persons to speak in opposition
 - j. Additional conditions of approval if applicable
 - k. Additional questions/comments from the Board
 - l. Public hearing closed
 - m. Board motion
 - n. Announcement of appeal process
8. Old business
9. New business
 - a. Citizen comments
 - b. Other new business
10. Approval of minutes of previous meetings
11. Adjournment

SECTION 4.6. MEETINGS AND RECORDS OPEN.

All meetings of the Wetlands Board at which official action is taken shall be open to the public and all records of the Wetlands Board shall be public record. Minutes of the Wetlands Board shall be public records when duly adopted by the Wetlands Board. All meetings shall be audio taped; *provided*, however, that closed meetings of the Wetlands Board shall not be taped. The Secretary shall retain such audiotapes for one hundred twenty (120) days from the date of the public hearing. On or after the one hundred twenty-first (121st) day, the tapes shall be erased or otherwise disposed of.

ARTICLE V

SECTION 5.1. STAFF ASSISTANCE.

The Isle of Wight County Department of Planning and Zoning staff, shall be encouraged to advise, upon request, all members regarding the technical aspects of matters before the

Wetlands Board. The Chairman may request staff, including counsel, to prepare and present special reports as the need arises.

SECTION 5.2. LEGAL COUNSEL.

The County Attorney, or his designee, shall serve as legal counsel to the Wetlands Board.

ARTICLE VI

SECTION 6.1. ATTENDANCE.

Wetlands Board members are encouraged to attend all meetings and to notify the Secretary or the Chairman at least twenty-four (24) hours prior to any such meeting if they will be unable to attend a meeting. In the event a Wetlands Board member is recorded absent from three (3) meetings without good cause, the remaining members shall request the Isle of Wight County Board of Supervisor replace such member. Such request shall not be binding on the Isle of Wight County Board of Supervisors.

SECTION 6.2. OBJECTIVITY.

Wetlands Board members shall make every attempt to remain neutral and uncommitted on issues coming before the Wetlands Board until said issues have been presented to the Wetlands Board and the proponents and opponents concerning same have been heard. Additionally, Wetlands Board members shall not represent any applicant before the Wetlands Board. Wetlands Board members shall excuse themselves from discussion or voting on any matter in which they may have a conflict of interest as set forth in the Code of Virginia.

SECTION 6.3. TIME LIMIT.

The time limit for comment concerning agenda items (other than comment during public hearings) is limited to five (5) minutes per person. The Chairman may, in his discretion, waive this time limitation, if the circumstances necessitate same due to the complexity of the issues and agenda items.

SECTION 6.4. SPEAKING.

All Wetlands Board members, as well as staff and members of the public in attendance, shall not be allowed to speak on any matter before the Wetlands Board without first gaining recognition from the Chairman.

SECTION 6.5. TRAINING.

All Wetlands Board members are encouraged to attend training sessions sponsored by the State of Virginia or the Isle of Wight County Department of Planning and Zoning in order to more effectively carry out their responsibilities to meet the objectives of the Wetlands Board.

SECTION 6.6. PUBLIC HEARINGS.

The Chairman will make a brief statement identifying the matter to be heard and verify with the Secretary that all legal notification requirements have been met. The Chairman may call upon the Zoning Administrator or his designee to speak to the issue and present a staff report. The applicant may appear on his own behalf at the public hearing, or be represented by counsel or an agent, and speak to the issue. The applicant, his counsel or agent have a combined total of ten (10) minutes of time to speak. The Chairman will open the floor to public comment, if any, after the Zoning Administrator or his designee, if requested, and the applicant, or his counsel or agent, have spoken. Any private citizen may speak for or against the issue. Private citizens are limited to a maximum of five (5) minutes per speaker. The applicant or his counsel or agent shall be given an opportunity for a final rebuttal, which shall last no more than five (5) minutes. The Chairman may at his discretion waive these time limitations, if the circumstances necessitate same due to the complexity of the issues.

ARTICLE VII

SECTION 7.1. PROCEDURES.


These By-Laws may, within the limits set by law, be amended at any regular meeting of the Wetlands Board by an affirmative vote of not less than two-thirds majority of the members, present and voting, *provided that* such amendments shall have first been presented to all members in writing at a meeting of the Wetlands Board at least thirty (30) days prior to the meeting at which the vote is taken and upon review and approval by the Isle of Wight County Board of Supervisors.

SECTION 7.2. RULES OF ORDER; SUSPENDING RULES.


The proceedings of the Wetlands Board, except as otherwise provided in these By-Laws and by applicable State law, shall be governed by the principles of Robert's Rules of Order.

These Rules may only be suspended on presentation of a motion to that effect which is carried by unanimous vote of the members present and voting.

Approved by the Isle of Wight County Board of Supervisors at a regular meeting by motion duly adopted the 23rd day of September, 2010.


Phillip A. Bradshaw, Chairman
Isle of Wight County
Board of Supervisors

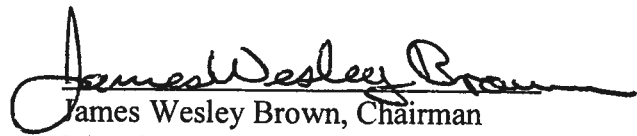
Approved as to Form:


A. Paul Burton,
Interim County Attorney

Attested:


Carey Mills Storm, Clerk

Adopted this 4th day of October, 2010.


James Wesley Brown, Chairman
Isle of Wight County
Wetlands Board

APPENDIX

SECTION A.

The Wetlands Board adopts the Wetlands Mitigation – Compensation Policy and Supplemental Guidelines as set forth in 4 VAC 20-390-10 et seq.

1. The performance bond or letter of credit required until a new wetland is established shall be in an amount acceptable to the Zoning Administrator, or his designee, and in a form acceptable to the County Attorney.

SECTION B.

The Wetlands Board adopts the Virginia Institute of Marine Science, Center for Coastal Resources Management's Recommendations for Implementing the Tidal Wetlands Mitigation – Compensation Policy.

1. In the event that the Wetlands Board finds that the requirements for acceptance of in-lieu fees is met, the in-lieu fee shall be set at a value one percent (1%) greater than the prevailing wetlands mitigation bank rate.