



**WETLANDS BOARD  
MINUTES**

CITY OF VIRGINIA BEACH

CITY COUNCIL CHAMBER

FEBRUARY 17, 2020  
10:00 AM

**MEMBERS PRESENT:**

CHAIRMAN, JAMES T. VAIL, PRESIDING  
VICE CHAIR, JOASHUA SCHULMAN

STEPHEN BALLARD  
JASON BARNEY  
BENJAMIN J. MCFARLANE  
CINDY HAWKS WHITE  
RICHARD WHITTEMORE

**MEMBERS ABSENT:**

KATIE CRUM

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**WETLANDS BOARD  
VIRGINIA BEACH, VIRGINIA  
PUBLIC HEARING MINUTES**

The February 2020 Public Hearing for the Virginia Beach Wetlands Board was called to order by the Chair, James T. Vail, in the City Council Chamber, Virginia Beach, Virginia, 10:00 AM, February 17, 2020.

The Chair welcomed all present, stated the responsible charge of the Wetlands Board, as delineated in the Virginia State Code and announced appeals are available through the Virginia Marine Resources Commission (VMRC) within ten (10) days of this Board's decision.

Approval expires one (1) year from the date it is granted. A permit is normally extended, but not an approval. Applicants are advised to obtain their permit within no more than thirty (30) days of their Hearing. Extensions must be requested before the expiration date.

The Chair acknowledged each applicant and/or agent for the applicant and administered the oath of truth and honor.

The slide presentation for each application site was rendered by Mr. Charles McKenna.

**DONALD AND MARGARET MAYER  
APPLICATION No.: 2020-WTRA-00005**

**PROJECT:** To install a bulkhead involving wetlands

**PROJECT LOCATION:** 316 Grebe Crescent, contiguous to Canal to North Bay

**SPEAKER:** FOR – R. Harold Jones, Sigma Environmental Services, Inc.

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the application of **Donald and Margaret Mayer** was **APPROVED, AS MODIFIED, WITH THE FOLLOWING CONDITIONS:**

1. The top of the bulkhead shall be set no higher than the existing rip rap or existing grades on the east end of the project to not impact the existing drainage pattern on that portion of the property with revised plans submitted showing the drainage solution in that area.
2. Revised plans detailing the proposed replacement of the rip rap, including the excavation of the toe shall be submitted to the Virginia Marine Resources Commission (VMRC) and ultimately approved by the Department of Planning and Community Development prior to the issuance of a building permit.
3. Compensation shall be recalculated once revised plans have been approved showing the relocation of the rip rap.

No Net Loss of wetlands on this project was achieved by the use of on-site compensation and a payment of an in-lieu fee.

**VOTE:** 6-0

**MEMBERS VOTING AYE:**

Stephen Ballard, Jason Barney, Benjamin J. McFarlane,  
Joshua Schulman, Richard Whittemore and James T. Vail

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Katie Crum

**MEMBERS ABSTAINING:**

Cindy Hawks White

***Ms. White abstained due to representing the adjacent neighbor, Olszak.***

**ROBERT AND ELEANOR BELL  
2020-WTRV-00001  
SHOW CAUSE HEARING**

**PROJECT:** Unauthorized sand grading involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 2448 Sandfiddler Road, contiguous Atlantic Ocean

**SPEAKERS:** **FOR** – Robert E. Simon, Waterfront Consulting, Inc.  
Robert Bell, Applicant and Homeowner

Mr. Simon provided the Board with photographs from the City's website dated 2013, 2016 and 2019 showing the dune that formed. The photographs are a part of the permanent record of this public hearing and may be viewed at the Office of the City Clerk.

Chair Vail and Vice Chair Schulman inquired with Staff as to whether the existing permit is sufficient or whether another permit application should be filed. Mr. Compton responded that the matter could be addressed if the Board would like a Restoration Plan at the Restoration Hearing and the Board agreed that the Restoration Plan was necessary.

Mr. Schulman moved that **Robert and Eleanor Bell** be found in Violation and requested that the following findings be incorporated into his motion:

1. The testimony presented in this Hearing indicates that the activity, unauthorized sand grading involving coastal primary sand dune of **Robert and Eleanor Bell** at 2448 Sandfiddler Road, which is the subject of this Show Cause action, constitutes a violation of the provisions of the Coastal Primary Sand Dune Zoning Ordinance.
2. Based on the testimony of Staff, the environmental impact to the Coastal Primary Sand Dune System is minimal and the relative degree of deviation or non-compliance is moderate.

Accordingly, Mr. Schulman moved that a civil charge of one thousand five hundred dollars (\$1,500) be imposed on 2448 Sandfiddler Road pursuant to Section 1619(b) of the Coastal Primary Sand Dune Zoning Ordinance. This civil charge shall be paid by certified check or cashier's check, payable to the Treasurer of the City of Virginia Beach, and delivered to the Office of the City Attorney no later than ten (10) days from today, together with an executed Memorandum of Agreement acknowledging the violation and consent to the imposition of a civil charge. Payment of the civil charge shall be in lieu of any civil penalty that may be imposed by the Circuit Court with respect to the violation which is the subject of this Show Cause and in addition to any cost of restoration that may be ordered by this Board.

Mr. Schulman further moved that **Robert and Eleanor Bell** are hereby ordered to appear at a Restoration Hearing to be held on March 16, 2020 (Mr. Simon waived the thirty (30) day

**ROBERT AND ELEANOR BELL  
2020-WTRV-00001  
SHOW CAUSE HEARING  
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notice requirement), for entry of a Restoration Order pursuant to Section 1615(d) of the Coastal Primary Sand Dune Zoning Ordinance. Failure to appear at this Restoration Hearing constitutes a separate violation.

In the event **Robert** and **Eleanor Bell** refuses to accept or fails to pay the civil charge as set forth herein or fails to appear at the Restoration Hearing as set forth herein, the City Attorney is hereby directed to institute legal proceedings against **Robert** and **Eleanor Bell** in the Circuit Court of the City of Virginia Beach and to pursue any and all remedies available under the Coastal Primary Sand Dune Zoning Ordinance, including, but not limited to, civil penalties.

Mr. Barney seconded the motion.

**VOTE: 7-0**

**MEMBERS VOTING AYE:**

Stephen Ballard, Jason Barney, Benjamin J. McFarlane, Joshua Schulman,  
Cindy Hawks White, Richard Whittemore and James T. Vail

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Katie Crum

**MEMBERS ABSTAINING:**

**DAVID HEACOCK  
2020-WTRV-00002  
SHOW CAUSE HEARING**

**PROJECT:** Unauthorized sand grading involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 2444 Sandfiddler Road, contiguous Atlantic Ocean

**SPEAKER:** **FOR** – Robert E. Simon, Waterfront Consulting, Inc.

Mr. Simon provided the Board with photographs from the City's website dated 2013, 2016 and 2019 showing the dune that formed. The photographs are a part of the permanent record of this public hearing and may be viewed at the Office of the City Clerk.

Chair Vail and Vice Chair Schulman inquired with Staff as to whether the existing permit is sufficient or whether another permit application should be filed. Mr. Compton responded that the matter could be addressed if the Board would like a Restoration Plan at the Restoration Hearing and the Board agreed that the Restoration Plan was necessary.

Mr. Schulman moved that **David Heacock** be found in Violation and requested that the following findings be incorporated into his motion:

1. The testimony presented in this Hearing indicates that the activity, unauthorized sand grading involving coastal primary sand dune of **David Heacock** at 2444 Sandfiddler Road, which is the subject of this Show Cause action, constitutes a violation of the provisions of the Coastal Primary Sand Dune Zoning Ordinance.
2. Based on the testimony of Staff, the environmental impact to the Coastal Primary Sand Dune System is minimal and the relative degree of deviation or non-compliance is moderate.

Accordingly, Mr. Schulman moved that a civil charge of one thousand five hundred dollars (\$1,500) be imposed on **David Heacock** at 2444 Sandfiddler Road pursuant to Section 1619(b) of the Coastal Primary Sand Dune Zoning Ordinance. This civil charge shall be paid by certified check or cashier's check, payable to the Treasurer of the City of Virginia Beach, and delivered to the Office of the City Attorney no later than ten (10) days from today, together with an executed Memorandum of Agreement acknowledging the violation and consent to the imposition of a civil charge. Payment of the civil charge shall be in lieu of any civil penalty that may be imposed by the Circuit Court with respect to the violation which is the subject of this Show Cause and in addition to any cost of restoration that may be ordered by this Board.

Mr. Schulman further moved that **David Heacock** is hereby ordered to appear at a Restoration Hearing to be held on March 16, 2020 (Mr. Simon waived the thirty (30) day notice

**DAVID HEACOCK  
2020-WTRV-00002  
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requirement), for entry of a Restoration Order pursuant to Section 1615(d) of the Coastal Primary Sand Dune Zoning Ordinance. Failure to appear at this Restoration Hearing constitutes a separate violation.

In the event **David Heacock** refuses to accept or fails to pay the civil charge as set forth herein or fails to appear at the Restoration Hearing as set forth herein, the City Attorney is hereby directed to institute legal proceedings against **David Heacock** in the Circuit Court of the City of Virginia Beach and to pursue any and all remedies available under the Coastal Primary Sand Dune Zoning Ordinance, including, but not limited to, civil penalties.

Mr. Barney seconded the motion.

**VOTE: 7-0**

**MEMBERS VOTING AYE:**

Stephen Ballard, Jason Barney, Benjamin J. McFarlane, Joshua Schulman,  
Cindy Hawks White, Richard Whittemore and James T. Vail

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**


Katie Crum

**MEMBERS ABSTAINING:**



At 11:19 AM, the February 17, 2020, Public Hearing of the Virginia Beach Wetlands Board was adjourned by the Chair, James T. Vail.

The comments of the Planning Department are on file with the City of Virginia Beach Planning Department.



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Jennifer A. Grundler  
Deputy City Clerk II



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James T. Vail, Chair  
Wetland Board