



**WETLANDS BOARD  
MINUTES**

CITY OF VIRGINIA BEACH

CITY COUNCIL CHAMBER

APRIL 15, 2019  
10:01 AM

**MEMBERS PRESENT:**

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

NILS S. BAHRINGER  
JASON BARNEY  
CINDY HAWKS WHITE

**MEMBERS ABSENT:**

STEPHEN BALLARD  
KATIE CRUM

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

The April, 2019 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, at 10:01 AM, April 15, 2019.

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.

**SEA-AIR-AHH PROPERTIES**  
**APPLICATION No.: 2017-WTRA-00011**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 3252 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **Sea-air-Ahh Properties, LLC**, for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**S WIND, LLC**  
**APPLICATION No.: 2017-WTRA-00030**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 3432 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **S Wind, LLC**, for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**JAMES DINKINS**  
**APPLICATION No.: 2017-WTRA-00046**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 3256 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **James Dinkins**, for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**VIRGINIA M. POPE REVOCABLE TRUST  
APPLICATION No.: 2017-WTRA-00058**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 2612 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **Virginia M. Pope Revocable Trust** for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**THOMAS LOW**  
**APPLICATION No.: 2017-WTRA-00069**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 3380 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **Thomas Low** for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**



**GORDON ECHOLS AND CHRISTINE PRYATELY  
APPLICATION No.: 2017-WTRA-00079**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 3616 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **Gordon Echols and Christine Pryately** for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**WILLIAM AND LISA SYLVESTER  
APPLICATION No.: 2017-WTRA-00080**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 2764 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **William and Lisa Sylvester** for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**ROBERT AND SUSAN HENDERSON  
APPLICATION No.: 2017-WTRA-00088**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 2632 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **Robert and Susan Henderson** was for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**SUNSET VIRGINIA PROPERTIES  
APPLICATION No.: 2017-WTRA-00089**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 2476 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **Sunset Virginia Properties, LLC** was for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**SUNSET VIRGINIA PROPERTIES**  
**APPLICATION No.: 2017-WTRA-00090**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 2816 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **Sunset Virginia Properties, LLC** was for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**SUNSET VIRGINIA PROPERTIES  
APPLICATION No.: 2017-WTRA-00091**

**PROJECT:** To excavate sand involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 2856 Sandfiddler Road contiguous to Atlantic Ocean

**REQUEST:** Extension of Time

**SPEAKER:** None

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the request of **Sunset Virginia Properties, LLC** was for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**TODD MILLER**  
**APPLICATION No.: 2019-WTRA-00023**

**PROJECT:** To rework a rip rap revetment involving wetlands

**PROJECT LOCATION:** 2900 Wood Duck Drive, contiguous to Man-Made Canal off Mill Creek

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

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the application of **Todd Miller** was **APPROVED, AS SUBMITTED.**

No Net Loss of wetlands on this project was achieved by the use of on-site compensation.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**JENNIFER HUELSBERG  
APPLICATION No.: 2019-WTRA-00057**

**PROJECT:** To construct rip rap in front of a bulkhead involving wetlands

**PROJECT LOCATION:** 1608 Bay Point Drive, contiguous to Broad Bay

**SPEAKER:** **FOR** – David Kledzik, Marine Engineering and Technology, LLC

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the application of **Jennifer Huelsberg** was **APPROVED, AS SUBMITTED.**

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

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**



**GEORGE CLARKE**  
**APPLICATION No.: 2019-WTRA-00058**

**PROJECT:** To remove bulkhead, construct rip rap, excavate uplands, dredge and create a living shoreline involving wetlands

**PROJECT LOCATION:** 128 Pinewood Road, contiguous to Little Neck Creek

**SPEAKERS:** Robert E. Simon, Waterfront Consulting, Inc.  
Joseph "Joe" W. Prueher, Neighbor

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the application of **George Clarke** was **APPROVED, AS MODIFIED, WITH THE FOLLOWING CONDITIONS:**

1. Any trees removed as part of the construction process shall be mitigated on site at a 1:1 ratio.
2. Following installation of the wetlands vegetation, provide annual vegetation monitoring reports in mid-August for three (3) years. The reports shall include pictures and a re-vegetation plan for any areas of the vegetation that failed to establish.
3. Provide revised wetlands impacts to include non-vegetated wetlands impacts for the removal of land bridge.
4. Revised plans shall be submitted to Virginia Marine Resources Commission (VMRC) and ultimately approved by the Department of Planning and Community Development prior to the issuance of a building permit.

No Net Loss of wetlands on this project was achieved by the use of on-site compensation.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**JOHN DAVEY**  
**APPLICATION No.: 2019-WTRA-00060**

**PROJECT:** To install bulkhead involving wetlands

**PROJECT LOCATION:** 509 Lighthouse Point, contiguous to Lake Rudee

**SPEAKER:** **FOR** – Pete Owen, Flint Marine Construction

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the application of **John Davey** was **APPROVED, AS SUBMITTED.**

No Net Loss of wetlands on this project was achieved by payment of an in-lieu fee.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**ROBERT SPECK**  
**APPLICATION No.: 2019-WTRA-00062**

**PROJECT:** To dredge and construct timber sill involving wetlands

**PROJECT LOCATION:** 2617 Sandy Valley Road, contiguous to Eastern Branch of Lynnhaven River

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

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the application of **Robert Speck** was **APPROVED, AS MODIFIED, WITH THE FOLLOWING CONDITIONS:**

1. The proposed timber sill shall be lowered to a height of 1.0 foot above mean low water. Revised plans 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.

No Net Loss of wetlands on this project was achieved by the payment of an in-lieu fee.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**SUNSET VIRGINIA PROPERTIES, LLC**  
**APPLICATION No.: 2019-WTRA-00059**

**PROJECT:** To install a bulkhead involving a Coastal Primary Sand Dune/Beach

**PROJECT LOCATION:** 2760 Sandfiddler Road, contiguous to Atlantic Ocean

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

Upon Motion by Mr. Schulman, seconded by Mr. Barney, the application of **Sunset Virginia Properties, LLC** was **APPROVED, AS MODIFIED, WITH THE FOLLOWING CONDITIONS:**

1. Coordinate with Public Works to determine the appropriate top elevation of the bulkhead cap in the public beach accessway.
2. Sand on the landward and seaward side of the bulkhead across the public beach accessway shall be at least as high as the bulkhead cap to allow for pedestrian access to the beach. Revised plans shall be submitted to Virginia Marine Resources Commission (VMRC) and ultimately approved by the Department of Planning and Community Development prior to the issuance of a building permit.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**THOMAS ARATA  
2019-WTRV-0002**

**SHOW CAUSE HEARING**

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

**LOCATION:** 3272 Sandfiddler Road, contiguous to Atlantic Ocean

**SPEAKER:** Thomas Arata

Mr. Schulman moved that **Thomas Arata**, 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 **Thomas Arata** at 3272 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 moderate and the relative degree of deviation or non-compliance is minor.

Accordingly, Mr. Schulman moved that a civil charge of one thousand five hundred dollars (\$1,500) be imposed on **Thomas Arata** 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 **Thomas Arata** are hereby ordered to file an completed After-the-Fact Permit application to be delivered to the Virginia Marine Resource Commission (VMRC) within sixty (60) days from the date of this hearing. In addition to the After the Fact Permit application, **Thomas Arata** is hereby ordered to appear at a Restoration Hearing to be held on June 17, 2019, 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.

**THOMAS ARATA  
2019-WTRV-0002  
SHOW CAUSE HEARING  
PAGE 2**

**Thomas Arata** is to submit revised plans showing the regrading and replanting of the dune and to have those documents available at the Restoration Hearing.

In the event **Thomas Arata** 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 **Thomas Arata** in the Circuit Court of the City of Virginia Beach and to pursue any and all remedies available under the Wetlands Zoning Ordinance, including, but not limited to, civil penalties.

Mr. Barney seconded the motion.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

**HE HUANG AND CHUI MEI CHEUNG  
2018-WTRV-0003**

**RESTORATION HEARING**

**VIOLATION:** Unauthorized bulkhead retaining wall involving wetlands  
**LOCATION:** 685 Thalia Point Road, contiguous to Western Branch Lynnhaven River  
**SPEAKER:** None

Upon Motion by Mr. Schulman seconded Mr. Barney, the **RESTORATION** hearing of **He Huang and Chui Mei Cheung** was **DEFERRED FOR THIRTY (30) DAYS TO THE MAY 2019 WETLANDS PUBLIC HEARING.**

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

Nils S. Bahringer, Jason Barney, Joshua Schulman  
James Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**


Stephen Ballard and Katie Crum

**MEMBERS ABSTAINING:**

At 10:52 AM -10:57 AM the Board took a break.

At 11:27AM, the April 15, 2019, 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