



**WETLANDS BOARD  
MINUTES**

CITY OF VIRGINIA BEACH

CITY COUNCIL CHAMBER

JULY 15, 2019  
10:00 AM

**MEMBERS PRESENT:**

CHAIRMAN, JAMES T. VAIL, PRESIDING  
VICE CHAIR, JOASHUA SCHULMAN  
STEPHEN BALLARD  
BENJAMIN J. MCFARLANE  
CINDY HAWKS WHITE

**MEMBERS ABSENT:**

NILS S. BAHRINGER  
JASON BARNEY  
KATIE CRUM

# INDEX

## OLD BUSINESS –WETLANDS

BRANDON & JILL LOFTUS	2017-WTRA-00193	4
HANS AND HOLLI WACHTMEISTER	2018-WTRA-00089	5
FARINO LIVING TRUST	2019-WTRA-00092	6

## NEW BUSINESS –WETLANDS

SHANE AND MARIA SULLIVAN	2019-WTRA-00121	7
JOE RHODES, JR.	2019-WTRA-00122	8
ANTHONY KALAMS	2019-WTRA-00123	9
CHARLES C. POGUE	2019-WTRA-00127	10
ANDREW C. HODGE	2019-WTRA-00138	11

## SHOW CAUSE HEARINGS

SAMARAS FAMILY REVOCABLE TRUST	2018-WTRV-00002	12
LINKHORN INVESTMENTS Co., LLC	2019-WTRV-00003	13-14

## RESTORATION

THOMAS ARATA	2019-WTRV-00002	15
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**WETLANDS BOARD  
VIRGINIA BEACH, VIRGINIA  
PUBLIC HEARING MINUTES**

The July 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 10:00 AM, July 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.

**BRANDON AND JILL LOFTUS  
APPLICATION No.: 2017-WTRA-00193**

**PROJECT:** To dredge and construct a bulkhead involving wetlands  
**PROJECT LOCATION:** 3741 Little Neck Point, contiguous to Western Branch Lynnhaven River  
**REQUEST:** Extension of Time  
**SPEAKER:** **FOR** – Robert E. Simon, Waterfront Consulting, Inc.

Upon Motion by Mr. Schulman, seconded by Ms. White, the request of **Brandon and Jill Loftus** for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE:** 5-0

**MEMBERS VOTING AYE:**

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

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**

**HANS AND HOLLI WACHTMEISTER  
APPLICATION No.: 2018-WTRA-00089**

**PROJECT:** To install a bulkhead involving wetlands 1421 Crystal Parkway

**PROJECT LOCATION:** 1421 Crystal Parkway contiguous to Crystal Lake

**REQUEST:** Extension of Time

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

Upon Motion by Mr. Schulman, seconded by Ms. White, the request of **Hans** and **Holli Wachtmeister** for a **ONE (1) YEAR EXTENSION OF TIME** was **GRANTED**.

**VOTE:** 5-0

**MEMBERS VOTING AYE:**

Stephen Ballard (Voice Vote), Benjamin J. McFarlane, Joshua Schulman,  
James T. Vail and Cindy Hawks White

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**

**FARINO LIVING TRUST  
APPLICATION No.: 2019-WTRA-00092**

**PROJECT:** To replace a bulkhead two (2) feet channelward involving wetlands

**PROJECT LOCATION:** 681 Thalia Point Road, contiguous to Western Branch of Lynnhaven River

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

*(This matter was deferred from the May 20, 2019, Wetlands Board Hearing)*

Upon Motion by Mr. Schulman, seconded by Ms. White, the application of **Farino Living Trust** was **DEFERRED TO THE AUGUST 2019 WETLANDS PUBLIC HEARING.**

**VOTE:** 5-0

**MEMBERS VOTING AYE:**

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

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**

**SHANE AND MARIA SULLIVAN  
APPLICATION No.: 2019-WTRA-00121**

**PROJECT:** To rework an existing rip rap revetment involving wetlands

**PROJECT LOCATION:** 1508 McCullough Lane, contiguous to Linkhorn Bay

**SPEAKERS:** **FOR** – Richard Calvert, Calvert Maine

Upon Motion by Mr. Schulman, seconded by Mr. McFarlane, the application of **Shane and Maria Sullivan** was **APPROVED, AS MODIFIED, WITH THE FOLLOWING CONDITION:**

1. The toe of the riprap shall be toed-in below grade and provide revised drawings to the Virginia Marine Resource Commission (VRMC).

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

**VOTE:** 4-0

**MEMBERS VOTING AYE:**

Stephen Ballard, Benjamin J. McFarlane, Joshua Schulman and  
James T Vail

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**

Cindy Hawks White

**Ms. White abstained due to a personal relationship with the applicant.**

**JOE RHODES, JR.**  
**APPLICATION NO.: 2019-WTRA-00122**

**PROJECT:** To construct a rip rap revetment and marsh sill involving wetlands

**PROJECT LOCATION:** 1297 Holly Point Road, contiguous Eastern Branch Lynnhaven River

**SPEAKER:** **FOR** – Richard Calvert, Calvert Maine

Upon Motion by Mr. Schulman, seconded by Ms. White, the application of **Joe Rhodes, Jr.**, 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:**

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

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**



**ANTHONY KALAMS**  
**APPLICATION NO.: 2019-WTRA-00123**

**PROJECT:** To install a bulkhead, coir log, backfill, construct a rip rap revetment, and plant wetlands vegetation involving wetlands

**PROJECT LOCATION:** 2604 Sandy Valley Road, contiguous to Eastern Branch Lynnhaven River

**SPEAKER:** **FOR** – Richard Calvert, Calvert Maine

Upon Motion by Mr. Schulman, seconded by Ms. White, the application of **Anthony Kalams** was **APPROVED, AS MODIFIED, WITH THE FOLLOWING CONDITIONS:**

1. The twelve (12) trees impacted by the proposed shoreline stabilization project shall be mitigated with six (6) canopy trees and six (6) understory trees, choosing species from the acceptable plant list within the DCR Riparian Buffers Modification and Mitigation Guidance Manual.
2. Wetlands impacts shall be compensated for on-site, and by payment of an in-lieu fee. The Agent will meet with Staff to recalculate wetlands losses and gains.
3. Revised plans shall be submitted to Virginia Marine Resource 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 and payment of an in-lieu fee.

**VOTE:** **5-0**

**MEMBERS VOTING AYE:**

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

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**

**CHARLES C. POGUE**  
**APPLICATION No.: 2019-WTRA-00127**

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

**PROJECT LOCATION:** 303 Teal Crescent, contiguous to Sand Ridge

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

Upon Motion by Mr. Schulman, seconded by Ms. White, the application of **Charles C. Pogue** was **APPROVED, AS MODIFIED, WITH THE FOLLOWING CONDITION:**

1. During the pre-construction meeting, all trees proposed for removal shall be identified. All trees removed shall be mitigated onsite at a 1:1 ratio.

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

**VOTE:** **5-0**

**MEMBERS VOTING AYE:**

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

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**

**ANDREW C. HODGES  
2019-WTRA-00138**

**PROJECT:** To rework a concrete bag revetment, grade uplands, and plant wetlands

**PROJECT LOCATION:** 3756 Little Neck Point, contiguous to Lynnhaven Bay

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

Upon Motion by Mr. Schulman, seconded by Ms. White, the application of **Andrew C. Hodges** was **APPROVED, AS MODIFIED, WITH THE FOLLOWING CONDITIONS:**

1. Elimination of the portion of the project on the adjacent property to the west.
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. Revised plans shall be submitted to Virginia Marine Resource 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:**

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

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**

**SAMARAS FAMILY REVOCABLE TRUST  
2018-WTRV-0002**

**SHOW CAUSE HEARING**

**VIOLATION:** Unauthorized concrete block retaining wall  
**LOCATION:** 116 Pinewood Road #B, contiguous to Little Neck Creek  
**SPEAKERS:** FOR – Robert E. Simon, Waterfront Consulting, Inc.

*(This matter was deferred from the February 18, 2019, Wetlands Board Hearing)*

Upon motion by Mr. Schulman, seconded by Ms. White, there was no violation found for **Samaras Family Revocable Trust.**

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

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

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**

**LINKHORN INVESTMENTS Co, LLC  
2019-WTRV-0003**

**SHOW CAUSE HEARING**

**VIOLATION:** Unauthorized bulkhead impacting wetlands

**LOCATION:** 1525 McCullough Lane, contiguous to Linkhorn Bay

**SPEAKER:** Billy Garrington, Government Permitting Consultants, agent for Linkhorn Investment Co. and Charles “Chuck” R. Labiak, owner of Broad Bay Contracting, Inc.

Mr. Schulman moved that **Linkhorn Investments Co., LLC**, and **Broad Bay Contracting, Inc.**, 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 bulkhead impacting wetlands, of **Linkhorn Investments Co., LLC**, at 1525 McCullough Lane, which is the subject of this Show Cause action, constitutes a violation of the provisions of the Wetlands Zoning Ordinance.
2. The testimony presented in this Hearing indicates that the activity, unauthorized bulkhead impacting wetlands, of **Broad Bay Contracting, Inc.**, at 1525 McCullough Lane, which is the subject of this Show Cause action, constitutes a violation of the provisions of the Wetlands Zoning Ordinance.
3. Based on the testimony of Staff, the environmental impact to the wetlands resources is minimal. The relative degree of deviation or non-compliance of the owner, **Linkhorn Investments Co., LLC**, is minor. The relative degree of deviation or non-compliance of the contractor, **Broad Bay Contracting, Inc.**, is major.

Accordingly, Mr. Schulman moved that a civil charge of one thousand dollars (\$1,000) be imposed on **Linkhorn Investments Co., LLC**, and a civil charge of five thousand dollars (\$5,000.00) be imposed on **Broad Bay Contracting, Inc.**, pursuant to Section 1418(b) of the Wetlands 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.

**LINKHORN INVESTMENTS CO., LLC  
2019-WTRV-0003  
SHOW CAUSE HEARING  
PAGE 2**

Mr. Schulman further moved that **Linkhorn Investments Co., LLC**, was hereby ordered to file a completed After-the-Fact Permit application, if not already done so, to be delivered to the Virginia Marine Resource Commission (VMRC) on or before the August 2019, Wetlands Board Hearing so that the Board can proceed to hear this matter that the Wetlands Board Public Hearing in August 2019.

Failure to file After-the-Fact Permit application as set forth herein constitutes a separate violation.

Mr. Ballard seconded the motion.

**VOTE: 5-0**

**MEMBERS VOTING AYE:**

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

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**

**THOMAS ARATA  
2019-WTRV-0002**

**RESTORATION HEARING**

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

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

**SPEAKER:** None

*(This matter was scheduled at the April 15, 2019, Restoration Hearing)*

Upon Motion by Mr. Schulman, seconded by Ms. White, the **RESTORATION** Hearing was **DEFERRED TO THE AUGUST 2019 WETLANDS PUBLIC HEARING.**

**VOTE:** 5-0

**MEMBERS VOTING AYE:**

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

**MEMBERS VOTING NAY:**

**MEMBERS ABSENT:**

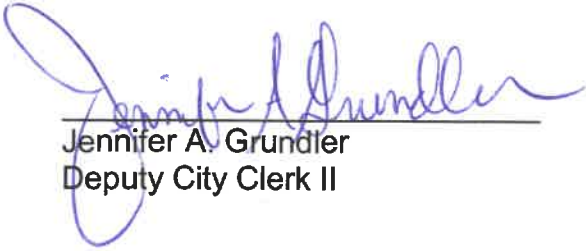
Nils S. Bahringer, Jason Barney and Katie Crum

**MEMBERS ABSTAINING:**

At 10:48 AM, the Board took a brief recess until 10:59 AM.

At 11:38 AM, the July 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