

**In The Matter Of:**  
*Portsmouth Wetlands Board*  
*Transcript of Public Hearing*

 **DRAFT**

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*March 2, 2016*

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PORTSMOUTH WETLANDS BOARD  
TRANSCRIPT OF PUBLIC HEARING  
WEDNESDAY, MARCH 2, 2016, 3:30 P.M.  
CONFERENCE ROOM  
SIXTH FLOOR, CITY HALL

\*\*\*\*\*

COMMISSIONERS PRESENT:

- Keith Abernathy, Vice Chair
- Herman Weaver
- Lena Simmons
- Donald Smith

COMMISSIONERS ABSENT:

- Steve Baum
- Samuel Peyton

CITY STAFF PRESENT:

- Stacy Porter

VIRGINIA MARINE RESOURCES COMMISSION:

- Rachel Maulorico

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I N D E X

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1 (Meeting called to order at 3:45 p.m.)  
2 MR. ABERNATHY: Good afternoon,  
3 everyone. As the Vice Chairman it's my privilege to  
4 call to order the March 2016 meeting of the City of  
5 Portsmouth Wetlands Board, and I would ask staff to  
6 please call the attendance.

7 MS. PORTER: All right. What is our  
8 time, by the way?

9 MR. ABERNATHY: The time the 3:45.

10 MS. PORTER: 3:45.

11 Good afternoon, everyone. All right.  
12 I'll just call your name, and you can indicate your  
13 attendance.

14 (Roll call)

15 MR. ABERNATHY: Let me take the  
16 opportunity to welcome the four board members that we  
17 have here. That is a quorum. I would like to  
18 especially welcome our new board member, Don Smith.  
19 Welcome, Don, and to Steve Baum, who is not with us  
20 today, but is another new member.

21 I hope that all of you received the  
22 minutes of our last meeting in your packet. It is not  
23 a typo. It was October the 1st, 2014. I would ask now  
24 is there any additions or corrections to the minutes  
25 that were submitted?

MS. PORTER: And, Mr. Chair, I would like  
to make a comment in the minutes, I know they are very  
long. I did mention that I was going to pull together  
a pamphlet speaking on phragmites, and believe it or  
not, I did not do that. What I did do for folks that  
wanted information on phragmites removal on their  
property is I used the letter format. But I would like  
to take the information from my letter and put it into  
a pamphlet. So it is forthcoming, and so the next  
time -- in fact, even if we don't meet anytime soon, I  
would maybe go ahead and throw it in the mail to you.

MR. ABERNATHY: Okay. As far as the  
minutes that were submitted, do I hear a motion that  
they be approved?

MR. WEAVER: I so move.

MS. SIMMONS: I second.

MR. ABERNATHY: Moved and seconded. All  
those in favor say aye.

(Vote)

Those opposed say nay.

(Vote)

The minutes are approved by unanimous  
vote, no objections.

MS. PORTER: Okay. I'll go on with our

1 public hearing. And according to your Code, the  
2 Wetlands Code, Wetlands Ordinance, I'll be specific,  
3 there is a section on quorums, and we do indeed have a  
4 quorum. I thank you all for coming out.

5 I do also want you to note, particularly  
6 for our newer folks, that applications have to be  
7 approved with four affirmative votes. So hopefully --  
8 it's no pressure to do that. I just want to make sure  
9 I stress to you-all that we have to have four  
10 affirmative votes. So if one of you felt that the  
11 project does not meet the requirements of our Wetlands  
12 Ordinance, or you have some other concerns, let's try  
13 to go ahead and talk them through so we can make sure  
14 we have four affirmative votes. Okay. I just wanted  
15 to throw that out there.

VMRC 16-0189 - BULKHEAD REPAIR

16 All right. I will go ahead and do our  
17 presentation for us. All right. The one application  
18 that we have today, our applicant is George E. Watkins.  
19 He is present. Also his agent, Dave Williamson with  
20 Dash Construction, is present. It is VMRC 16-0189. It  
21 is the request to replace a portion of a bulkhead that  
22 is deteriorated. And I guess a few of you-all did go  
23 out to the property, but I will still show pictures  
24 today.

25 The property is here right at the end of  
Hatton Point Road, that very last home here before the  
condominiums on that left-hand side. And this is just  
an aerial view of the property. To the north are those  
condos.

This is the Western Branch of the  
Elizabeth River. As you'll remember, the property did  
have two sides that we were looking at, one closer to  
the neighbor's pier here that was deteriorated, and I  
did highlight that in yellow. And then you do have  
this section here that was reinforced by those gabion  
baskets, and this portion for the most part will not be  
changed. We did note that there were a couple of areas  
where there was some erosion on the backside, but some  
of that will be filled in as this project progresses on  
this side, and I will really just focus my attention on  
this portion here.

Again, the applicant's property is  
located on the Western Branch of the Elizabeth River,  
the Wise Beach subdivision. The property has a 287  
linear foot shoreline that is defended by an aged  
wooden bulkhead. Approximately 175 feet of the  
bulkhead is reinforced by those gabion baskets, and  
that appeared to be generally stable.

1 Now the portion that they're asking for  
2 the permit for is this 112 linear foot expanse, and  
3 this is where the failing bulkhead is, and it's flanked  
4 by a stand up Spartina Alterniflora. We will look at  
5 that, and this is actually the area. I tried to make  
6 sure you got a really good view of it. I guess this  
7 was back in December that we were out to the property.  
8 Again, as I was mentioning, there is that stand up  
9 Spartina Alterniflora right in front that they're going  
10 to try and preserve. In fact, they will not be working  
11 on that side of the wall. They will be working  
12 approximately one foot behind.

13 I am going to just go ahead and click  
14 through the pictures that I took, just to show you some  
15 of the erosion right behind that wall. And, of course,  
16 those of you that went out to the property, you do  
17 remember those erosion holes back there, and again,  
18 that Spartina Alterniflora that they plan to preserve.

19 The contractor also proposes a 16-foot  
20 return wall on that western end of the property, which  
21 is actually down this way on the property. So the  
22 entire length of the new bulkhead, which will be a  
23 vinyl bulkhead, will be 128 linear feet in length.

24 Here we go. Here is a cross-sectional  
25 view, again, removing existing bulkhead here, and  
26 putting that new bulkhead right approximately one foot  
27 approximately behind. In fact, and you correct me if I  
28 am wrong, Dave, you said up to one foot, and if it  
29 doesn't need to be one foot, you will adjust it in the  
30 field, but up to one foot behind. So he will try to  
31 keep it as close to that current wall as possible.

32 The new structure will, the project will  
33 permanently affect approximately a 110 square feet of  
34 non-vegetative wetlands, according to what was  
35 submitted.

36 All right. And I want to go over the  
37 VIMS recommendation with you in just one second, but I  
38 did want to go over what I am calling the AMC Analysis,  
39 and I put that in our packets. I want you-all to know  
40 I am going to use this format from now on so that we go  
41 over avoidance, minimization, and compensation for each  
42 of our projects, because that's what we want to do.  
43 You all want to avoid any wetlands impact, because as  
44 much as we want a meeting, you want people to minimize  
45 the impacts to the tidal wetland area, and to even be  
46 out of your jurisdiction if at all possible.

47 So I will just go ahead and again mention  
48 he is avoiding the tidal wetland area by not working on  
49 the water side. He will be working on that land side.

1 So, again, he is fully avoiding your Spartina  
2 Alterniflora. He's going to avoid that. And, again,  
3 he says he'll work one foot, but it's up to one foot  
4 behind, but approximately one foot behind. So he's  
5 really attempting to minimize his impact to the tidal  
6 wetland area. No vegetative -- there will be no  
7 vegetative wetlands impact to the project.

8 According to your policy of this board  
9 for many years, we don't ask people to compensate for  
10 any of the non-vegetative tidal wetlands impact. Even  
11 though there is a 110 square feet of non-tidal wetland  
12 impact, no compensation will be required.

13 I'll go ahead into the VIMS, the Virginia  
14 Institute of Marine Science recommendation. And I did  
15 mention to our Chair that it is pertinent for the board  
16 members for each project to take each one of you, the  
17 tools that the Virginia Institute of Marine Science has  
18 presented. They have presented you-all -- and this is,  
19 I guess, a couple of years ago at one of their wetlands  
20 workshops they gave us this decision tree for  
21 shoreline, so that we don't just, you know, in a box  
22 make decisions; that we have our reasoning for how we  
23 make decisions. So I did make sure that we at least --  
24 especially for you, Don, I know it's brand new to you,  
25 but what I want you to do is always consider it, always  
consider it, as well as, of course, the newly adopted  
Living Shoreline Regulations that were adopted in the  
fall of last year. So we want to make sure we always  
look at those as our tools, and I'll talk to you later  
on about some additional trainings from VIMS that will  
be another tool, a computer mapping tool. But, of  
course, as I suspected and, you know, you-all do  
understand about the Virginia Institute of Marine  
Science, they don't prefer bulkheads. So basically  
they are requesting a rock sill, which is a living  
shoreline, a type of living shoreline in this location  
versus the bulkhead, and that's normally the  
recommendation. Normally they do not like bulkheads  
because it separates the marine environment from the  
upland environment. So I'll say this, and I will go  
ahead and let you-all make your decision, but I will  
still recommend the approval of the applicant's request  
for the 128 linear feet of bulkhead.

The applicant's property is located in  
the area of the highway of energy, so I wanted to  
consider that. Also, they do have a portion of  
bulkheads. Again, looking at the continuous bulkhead  
here, they're going to go ahead and preserve this  
section of bulkhead. But I did not -- I did not see

1 that doing the living shoreline here, again, highway of  
2 energy area and also having a bulkhead here, he just  
wants to continue what he has. I felt as if it was an  
appropriate request for a bulkhead.

3 But, again, I do want to call your  
4 attention to the tools that you have, and you're  
welcome to, of course, take my considerations into  
account as well. But that really is the presentation.  
5 So I am recommending approval.

6 MR. WEAVER: Question.

MS. PORTER: Yes.

7 MR. WEAVER: On your plan view --

MS. PORTER: Yes.

8 MR. WEAVER: -- you have 112 feet.

MS. PORTER: Okay.

9 MR. WEAVER: Here you're saying 128.

10 MS. PORTER: That's right. We have that  
return wall, too, 16-foot return wall. We have to  
consider that as well with the total 128.

11 MR. WEAVER: Yeah. Okay.

12 MS. PORTER: That's a good question.

13 MR. SMITH: So I have a question on the  
fetch. High energy would be greater than two miles?

14 MS. PORTER: Uh-huh.

15 MR. SMITH: Do we have that at that  
point? Where do we measure that from? Because I  
looked that up on Google maps.

16 MS. PORTER: That's a good question.  
That is not my technical expertise. I must admit that  
is not my technical expertise.

17 I could ask our VMRC person if they  
could, you know, give more information on that.

18 And only if you were prepared, Rachel.  
You do not have to.

19 MS. MAULORICO: I don't have the  
information. The agent might. I can't give that  
information, because I thought I was here for an appeal  
process.

20 MS. PORTER: Right.

21 MS. MAULORICO: So really all I can  
answer is procedural things, and after ten days I can,  
but hopefully the agent could answer it.

22 MS. PORTER: Would you like me to have  
Dave Williamson to come up?

23 MR. SMITH: Yeah, because there is a  
whole cause and effect thing.

24 MS. PORTER: Let's do that.

25 Dave.

MR. WILLIAMSON: There is. When you

1 consider living shorelines, there are about three or  
2 four things to consider. I make a lot of money doing  
living shorelines, so it doesn't matter to me.

MR. SMITH: Sure.

3 MR. WILLIAMSON: That area is -- like a  
4 lot of those nor'easter's, it gets really rough in that  
5 river; that's one thing to consider. It's pretty high  
6 boat traffic volume in there. You get a lot of boat  
wakes in there that do just as much, sometimes worse  
7 damage than the storms do.

8 And put that, you know, that aerial  
9 picture you got, put that thing back up again.

MS. PORTER: Okay. I sure will.

10 MR. WILLIAMSON: All right. Now just --  
11 okay, we're not going to do a bulkhead. If we've got  
12 to design a living shoreline, where are you going to  
13 put it? There is a tree. His deck and all is right  
14 there. This wall is, give or take, about four-foot  
15 high, in that range.

16 So, in other words, to put the  
17 appropriate marsh, you've got two choices. You've got  
18 to go way out in the river with rip rap, and fill the  
19 river in with sand, and make some kind of a marsh out  
20 there, the Spartina or whatever. Or to get all of the  
21 appropriate vegetation, you've got to grade the yard.  
22 You know, everything grows in an elevation. I mean,  
23 you can't make Spartina grow but in a little area. Any  
24 of that stuff grows in it. So what are you going to  
25 do? You've got to go way back in the yard for this  
thing. So then you got some kind of divide off the  
neighbors. Now you got to do some kind of return  
anyway of some description to the old bulkhead, if you  
take that little section and grade it back up. Am I  
making sense?

MR. SMITH: I know exactly what you're  
saying. But just following the VIMS thing, where I  
look at where he is on the Western Branch, I didn't see  
two miles.

MS. PORTER: I got you.

MR. SMITH: But it depends on where  
you're measuring.

MR. WILLIAMSON: If you're measuring --  
and, look, I don't know what it is, but you can take  
that little Google thing. I bet you it's two miles  
from his house over there to Norfolk.

MR. ABERNATHY: I would think it's two  
miles.

MR. WILLIAMSON: If you go under the West  
Norfolk Bridge and the marine terminals.

1 MR. SMITH: So to get it straight: Am I  
2 looking for the furthest distance down the river I can  
go.

MS. PORTER: Yes.

3 MR. ABERNATHY: Yes. That would face  
4 that property. I have had the training on the decision  
5 tree, and you're looking at the wave action having two  
6 miles coming. They came up with the miles, I guess in  
7 their experience, but you could have a mile and still  
8 have enough wave action to do erosion.

Now it is the policy of this board to  
encourage the use of a living shoreline as the  
preferred alternative to stabilizing tidal shorelines  
in the City of Portsmouth, but, you know, that's not  
always a good situation.

My question was going to be either to  
Mr. Watkins or Mr. Williamson, had they considered it?  
But according to you, you have considered that and  
recommended that this repair be the best.

MR. WILLIAMSON: Yeah. I don't see the  
distance to do, you know, to grade the ground and do  
what you got to do.

MR. SMITH: So another question then,  
because I am new and I am not sure, but in a  
nor'easter, isn't that in the lee right there? Isn't  
that getting no action? I can see from boat traffic  
getting a lot of wake. But because I hope to be here  
for a couple of years and maybe more, and I'll see  
stuff similar, isn't he in the lee right there? Isn't  
that not taking any --

MR. WILLIAMSON: It takes somewhat in a  
nor'easter. We've got just as much that blows from the  
southerly direction. It's just in an open part of the  
river. I mean, if you take in the opposite direction  
in a straight line, he might could go all the way  
across over there somewhere. I don't know if it's two  
miles, but into that creek. What is that, Bailey's  
Creek? I am thinking down there by City Park Bridge.  
I mean, that's almost two miles up into Bailey's Creek.  
I think that's Bailey's Creek, but I might be wrong.

MR. WATKINS: I think you're correct what  
you're saying, being a little bit in the lee of a north  
easterly. But if you were out there last Thursday  
night when that storm hit here, the wind was blowing 75  
miles an hour, and we got a heck of a beating right  
there, a heck of a beating.

MR. ABERNATHY: Okay. With that, let me  
ask Mr. Watkins or Mr. Williamson if you have anything  
else to add, please.

1 MR. WILLIAMSON: No.

2 MR. ABERNATHY: Okay. Hearing none and  
3 seeing no public here to speak or ask questions, I'll  
4 turn to the board and ask if you have any other  
5 questions or discussion, or if there is a motion  
6 considered by this application.

7 MS. SIMMONS: I motion to consider it.  
8 From all of the questions that when you look at living  
9 shorelines, it has to be amenable to the situation. It  
10 is not a rubber stamp that every situation requires  
11 that it has to be amenable and workable. And based  
12 upon her recommendation and your questions and the  
13 responses, it seems to be the most amenable situation  
14 to this area. So I vote -- I would like to recommend  
15 that we pass it.

16 MR. ABERNATHY: Okay. The motion is made  
17 to accept.

18 MR. WEAVER: Second.

19 MR. ABERNATHY: There is a second. Any  
20 discussion on the motion? If not, all those in favor,  
21 raise your right hand.

22 (Vote)

23 All those opposed likewise.

24 (Vote)

25 The motion passes, unanimous vote.

I would like to commend Mr. Watkins on  
taking the initiative to repair your bulkhead. We have  
too many bulkheads in this area that are starting to  
need repair, and people aren't taking the action. So  
we appreciate your time, Mr. Watkins, and the  
initiative to improve your bulkhead.

MS. PORTER: Thank you so much. I do  
have your approval letter, Mr. Watkins.

MR. WATKINS: Okay.

MS. PORTER: I am going to give that to  
your contractor. The permit is going to be actually  
mailed out in ten days, and that is the normal waiting  
period by law. Let me go ahead and get that to you,  
Dave.

MR. WATKINS: We have to get a building  
permit also?

MS. PORTER: That's correct.

MR. WILLIAMSON: When she sends  
everything -- you'll send all of this to him?

MS. PORTER: I can do that. I will send  
it to you, Mr. Watkins, and that way you can get your  
building permit. Okay. So ten days, just by law we  
have to do that. It's always something, isn't it?

MR. WATKINS: Thank you.

1 MS. PORTER: Okay. Thank you.  
2 MR. ABERNATHY: Does staff have any other  
3 items for public hearing?  
4 MS. PORTER: Not for public hearing.  
5 MR. ABERNATHY: If there are no other  
6 items for public hearing, do I hear a motion that the  
7 meeting be adjourned?  
8 MR. WEAVER: So moved.  
9 MS. PORTER: We're going to go to some  
10 new business.  
11 MR. ABERNATHY: Okay.  
12 MS. PORTER: No public hearing though.  
13 We're going to get everybody out of here  
14 quick. First of all, thank y'all for coming to our  
15 annual meeting. I tell you.  
16 Well, according to your bylaws at the  
17 annual meeting, and it does say at the annual meeting  
18 that you'll have to vote on your officers. And the  
19 reason that we do that -- and, Don, particularly just  
20 for you, so you know the reason we have it like that is  
21 we don't want anyone to sit in the Chair or Vice Chair  
22 position forever, and you know it might be someone else  
23 on the board that wants to be a Chairman or Vice  
24 Chairman. So that's why we do it annually. But we do  
25 need a Chair officially.  
Thank you for chairing the meeting,  
Keith. We really appreciate it.  
MR. ABERNATHY: You're welcome.  
MS. PORTER: But we're going to go ahead  
and do a motion on nominations on Chair and Vice Chair.  
MS. SIMMONS: Can we do self nominations?  
MS. PORTER: You certainly can.  
We're going to do the Chair first and  
then Vice Chair.  
Do I hear any motions for our Chair?  
MR. WEAVER: I make a motion for Keith  
Abernathy as our Chair.  
MS. PORTER: All right. Keith, all  
right.  
Do we have a second for that?  
MS. SIMMONS: I'll second.  
MS. PORTER: Okay. All right. All those  
in favor for Keith being the Chair, please raise your  
right hand.  
(Vote)  
Okay. Are you going to raise your right  
hand?  
MS. SIMMONS: Yes. But I would like to  
nominate myself for Vice Chair.

1 MS. PORTER: Okay. Let's make sure we  
get the first one.

2 MS. SIMMONS: Okay.

3 MS. PORTER: So we have a motion and a  
second for Keith to be the Chair, and so I want to make  
sure I get a count of hands count.

4 (Vote)

5 Okay. Four. Okay. Great. So four.  
Congratulations.

6 MR. ABERNATHY: Thank you.

7 MS. PORTER: Okay, Chairman.  
Do I hear any nominations for Vice Chair?

8 MS. SIMMONS: Myself.

9 MS. PORTER: All right, Lena.  
Okay. Do I have a second?

10 MR. ABERNATHY: I have a nomination.

11 MS. PORTER: Okay. You have a  
nomination?

12 MR. ABERNATHY: Yes. I would like to  
nominate Mr. Herman Weaver.

13 MS. PORTER: Okay. We didn't get a  
second for Lena.

14 Okay. For Herman, do we have a second  
for Herman?

15 MR. SMITH: I'll second.

16 MS. PORTER: Okay. All right. Well, it  
looks like the first motion didn't pass, so we're going  
to go with the second one for Herman as Vice Chair.

17 All right. All those in favor for Herman  
being Vice Chair, please raise your right hands.

18 (Vote)

19 All right. Well, congratulations,  
Herman.

20 MR. WEAVER: Thank you. Thank you.

21 MS. PORTER: Okay. Wonderful. Again, we  
have another chance next year; that's how we do it.  
Okay. All right. That is that.

22 All right. We're going to move on. The  
training, Virginia Institute of Marine Science staff,  
Karen Duhring, and I don't know if you-all remember  
that name when we've gone to our trainings up there in  
Gloucester Point, but Karen Duhring is our contact with  
them. She's supposed to be getting back with me.  
We're going to try to do training.

23 Now let me ask this question first. What  
are good times of days, like, during the week? What is  
a good time for a training? Maybe if it's -- maybe if  
it's two hours. I am just going to say if it's a  
two-hour window. I know you're in a different bracket

1 than these folks, because they're working. I am  
2 curious for everybody.

3 MR. SMITH: Are we talking about here?  
4 MS. PORTER: Yes.

5 MR. SMITH: For me it would be after  
6 school hours, 3:30 to 5:30.

7 MS. SIMMONS: Me too.  
8 MS. PORTER: So 4:00 to 5:30, would that  
9 be okay?

10 MS. SIMMONS: Yes.

11 MS. PORTER: Okay. If for some reason it  
12 gets summertime -- are you off in the summertimes or  
13 not really?

14 MS. SIMMONS: Well, I am out spring break  
15 the end of the month.

16 MS. PORTER: All right. If it's that  
17 soon, I will take that into account. I don't want to  
18 take away from your spring break for training.

19 What I'll do is I'll look at the window  
20 from 4:00 to 5:30, something like that.

21 MR. ABERNATHY: Sure.

22 MS. PORTER: Okay. I will go ahead and  
23 talk to Karen Duhring. I will get back with you-all  
24 about that. All right. Let me put that 4:00 to 5:30.  
25 And also the presentation that was going  
to take place on March 17th will not take place. The  
gentleman that's working with -- it's formerly APM. I  
didn't know it wasn't APM Terminals anymore. I had no  
idea. But the APM Terminal folks did come to the  
Wetlands Board several years ago to get a Wetlands  
Board Permit, because they were impacting the tidal  
wetland area.

I was discussing a new project, actually,  
that they're doing. It's kind of new. It's kind of  
new. They're actually adding on. I was sent this  
little -- and I should have moved this bottom one up to  
the top, but that's okay. He wanted to make sure that  
I understand. It's a wharf extension that they're  
doing. It's out in the subaqueous bottom area.

When I initially talked to this  
gentleman, he's out of Newport News. Their company is  
helping -- it's not APM Terminals. It's another name.  
But basically they're helping them do this wharf  
extension out into the water. He thought, oh, yeah,  
it's going to impact some of the tidal wetlands. And  
he said, I thought about it. I had to go the whole  
weekend and think about it, because actually it doesn't  
impact any tidal wetlands this go round. I said, okay,  
I just want to make sure, because when I get a complete

1 application in, we have to hear it within 60 days. You  
2 have got to act on it. So I didn't want to hold up the  
3 show, you know, just having it sitting on my desk. And  
4 I wanted him to come in and talk to you all, but since  
5 it's not in your jurisdiction, there is no permit  
6 needed.

7 Yes, sir.

8 MR. WEAVER: You know we went out behind  
9 the naval shipyard.

10 MS. PORTER: Okay.

11 MR. WEAVER: There was an area over there  
12 where the people came out, and they're supposed to be  
13 doing the same thing, a wharf or pier or something out  
14 there.

15 MS. PORTER: Yeah. Yeah. Yeah.

16 MR. WEAVER: Has that project come to  
17 fruition?

18 MS. PORTER: When was that? Because I  
19 can't remember.

20 MR. WEAVER: It must have been a year or  
21 two ago.

22 MR. ABERNATHY: The one under the Jordan  
23 Bridge.

24 MS. PORTER: The Jordan Bridge?

25 MR. WEAVER: Yes.

MS. PORTER: Oh, yeah. I remember. They  
did it. That's been done.

MR. WEAVER: That's been done?

MS. PORTER: Yes. I remember exactly  
what you're talking about.

MR. WEAVER: Maybe we need to take a tour  
out there to see the results.

MS. PORTER: Okay. Well, what I'll have  
to do is research who the contact is, and see if we can  
go back out. You want to see it?

MR. WEAVER: Yeah. I would like to see  
it, see what they did.

MS. PORTER: That's fine. All right.  
Let me put that down. So let's do that. I'll just put  
Jordan Bridge, and that will remind me.

MR. WEAVER: Another question.

MS. PORTER: Yes, sir.

MR. WEAVER: Do we have other inspectors,  
or do we do the inspecting after a project is done?

MS. PORTER: We don't have any  
inspectors. If it requires a building permit, our  
building permit department, they have inspectors.

MR. WEAVER: Okay.

MS. PORTER: If it doesn't require a

1 building permit, like if it's stone rip rap, no, there  
2 is no inspector. There is no inspector. The Wetlands  
3 Board Permit, you know, that's why we have to make sure  
4 that the drawing is correct, you know, and we ask folks  
5 to please get a good contractor, but we don't have an  
6 inspector for those.

7 MR. WEAVER: Because they could do a  
8 violation.

9 MS. PORTER: They could potentially. We  
10 brought that up years ago.

11 MR. WEAVER: Okay.

12 MS. PORTER: I'm an office person. In  
13 fact, when I was out with Rachel and a couple of folks,  
14 I looked so crazy. Y'all had great boots on and hard  
15 hats and everything, and I am like, oh, my goodness,  
16 I'm stepping in mud. I am just an office person. I am  
17 not an inspector, and I am it. I am it. I more handle  
18 the administrative side of wetlands.

19 MR. WEAVER: That's fine.

20 MS. PORTER: The inspection part, I don't  
21 have the training and background in it, but that's a  
22 good question. We've talked about it some years ago,  
23 and we just don't have the staff to do it. It's  
24 unfortunate though. So a lot of projects without  
25 building permits don't get the inspections.

MR. WEAVER: Okay.

MS. PORTER: Yeah, they don't, but a very  
good point though.

And our last thing, our application fee,  
the State folks, what they do is they do up this really  
great little handy dandy chart every year updating us,  
all of the localities, on what everybody else is  
charging for their wetlands application fees and  
mitigation fees and everything.

Unfortunately, Portsmouth's fee has  
stayed \$55 for residential property, 165 for commercial  
forever, and it doesn't even really cover staff time.  
It doesn't cover the legal ad. Because now the  
Virginian Pilot, they don't allow us to, you know, send  
in the information and have them bill the property  
owners anymore. They're like, we don't do third-party  
billing. Okay. So I went to our director and he said,  
you know, we have to match some of these other fees a  
little bit better.

So basically for Mr. Watkins, we paid for  
his legal ad, and he just paid \$55. But he got off  
scot-free, not personal. But we want to make sure  
we're covering our fees a little bit better.

MR. WEAVER: Okay.

1 MS. PORTER: Okay. Think about \$55 for  
2 us. Okay, Hampton is 350. Isle of Wight is 750.  
3 Let's see. One was a thousand. Was it a thousand?  
4 No. I know -- yeah, King William County is a thousand.

5 MR. SMITH: For personal?

6 MS. PORTER: Yes, it is.

7 MR. SMITH: And we're 55?

8 MS. PORTER: Yes. It's obviously not  
9 comparable. So what we're going to do next year, we're  
10 going to try in the budget, we're going to try to roll  
11 in some additional moneys to cover legal ads and maybe  
12 a little staff time, not to go way up there. We're  
13 looking at, you know, maybe 150, 200. I mean, we're  
14 not going to go way up there, but we're going to try to  
15 cover the costs a little bit better.

16 MS. SIMMONS: What are you going to  
17 cover, your time, the staff time?

18 MS. PORTER: We could never do that.  
19 There is no way to do it.

20 MS. SIMMONS: I know when you do a cost  
21 analysis you take paper, staff. Just how are you going  
22 to justify the increase?

23 MS. PORTER: Okay. We could easily do  
24 that by this. We absolutely could, because \$55 doesn't  
25 make any sense, even comparing to other folks. You  
know, we would never be able to recoup our staff time.  
I wouldn't probably even put my salary in there. You  
know, just think about the cost for a legal ad.

MR. ABERNATHY: We need to at least cover  
the ads.

MS. PORTER: Yes. The ads on average by  
yourself, like him, \$130, so even to say at least 150.

MR. WEAVER: And your time when you go  
for site visits and things of that sort.

MS. PORTER: Yeah.

MR. WEAVER: You have to add in at least  
a couple of hours.

MS. PORTER: Something, right.

MS. SIMMONS: That's what I am thinking.  
What you do, put an average, if you can average what  
you spend, what you actually do.

MS. PORTER: Yeah. Yeah. I would love  
to. My boss has a point, though, because it's been 55,  
we hate to spring it way up there.

MR. WEAVER: Hey, it is what it is.

MS. PORTER: It's hard times, isn't it?  
It's hard times, but it will go up. That's all I  
wanted to bring up to you. It will go up. My director  
will make the final decision of what the cost will be,

1 but it's been real cheap forever. Just never really  
2 paid attention to it.

3 MS. SIMMONS: Can you find out how they  
4 justify it? Is their budget private? Could you see  
5 how they justify 1,000? I am curious to see how they  
6 justify 1,000, 750.

7 MS. PORTER: I don't know. Yeah, I am  
8 not a budget person.

9 MR. WEAVER: You're talking about their  
10 wetlands board in another city, how do they --

11 MS. PORTER: How other folks do it.

12 MR. WEAVER: Yes, how do they justify  
13 their costs associated with this.

14 MR. SMITH: Well, we can't make it too  
15 high where it would be a deterrent for people to do  
16 repairs.

17 MS. PORTER: That's so true. Because I  
18 do want to point out that folks like Mr. Watkins, he  
19 has a fee with our Chesapeake Bay Regulations that he  
20 had to pay. That's a little pricey, and that's in the  
21 hundreds of dollars. So he had to tack that on top of  
22 55. 55 is nothing, but he has a Chesapeake Bay  
23 Ordinance Regulation to adhere to as well.

24 So yeah, Don, you're correct. You don't  
25 want to be so high that a person is like, forget it, I  
am going to let the whole thing go.

MR. SMITH: It should at least cover our  
costs.

MS. PORTER: Yes.

MS. SIMMONS: What I'm saying is maybe we  
have parallel costs. I don't have a budget in front of  
me to know. But maybe they have an outline of some  
things that they do that you do that has a line item  
name that you can use to set up the costs and give us  
the language.

MS. PORTER: I know for me, I won't be  
making the decision. My boss is. So it's really kind  
of out of my hands. I'm just saying it's going to go  
up. I just don't know what it's going to be.

MR. WEAVER: You know we have so much to  
do with our wetlands and a lot of deterioration, and  
you know as we have with homes, we have a code that we  
have to adhere to.

MS. PORTER: Right. Right.

MR. WEAVER: The wetlands should have a  
code that they should adhere to also. So something  
like that needs to be established so we have something  
to base our costs on.

MS. PORTER: Okay. I got you.

1 MR. WEAVER: So if a person's bulkhead is  
2 falling apart, if an inspector goes out there and sees  
3 that, the homeowner has to be required to fix that,  
some way. There has to be something, some kind of code  
to accomplish that.

4 MS. PORTER: Yeah. And I hope that I  
5 could ask you, Rachel, and I don't want to say anything  
6 wrong. I know in our code -- now this is what I've  
7 been told over the years, that we can't make anyone get  
8 a permit. I mean, if a bulkhead is falling apart and  
it is, and we would love for them to fix it, but I know  
under violations it's more about someone intentionally,  
you know, spoiling a wetland area, not maybe so much I  
don't have the money to fix my bulkhead. But, you  
know, can you make someone get a permit?

9 MS. MAULORICO: So the way that the Code  
10 of Virginia is written, it talks about encroachment,  
11 filling, deteriorating, things of that sort, actually  
12 putting a human movement onto the wetlands. Not doing  
13 anything, I don't think the Code of Virginia actually,  
14 actually covers. So, like you said, I don't think  
15 there is anything in law that would allow us to make  
16 someone get a wetlands permit to clean up an old  
17 bulkhead or something of that sort.

18 MS. PORTER: Yeah.

19 MS. MAULORICO: Only if they were  
20 building a new bulkhead and were encroaching upon the  
21 wetlands, filling the wetlands, things of that sort;  
22 that's the only time we can assert jurisdiction.

23 MS. PORTER: I got you. And I understand  
24 what you're saying. Thank you so much. I understand  
25 what you're saying, because we have our neighborhood  
inspectors that if the grass isn't cut, if you haven't  
painted your house, and the paint is peeling --

MR. WEAVER: That's right.

MS. PORTER: -- and the car is sitting  
there without tags, and it's unfortunate that we don't  
just have the same criteria.

MR. WEAVER: Yes, it is.

MS. PORTER: It's unfortunate. It really  
is. Because that would help us a lot. We would have a  
whole lot more applications coming forward.

MR. WEAVER: That's right. We could  
impose some kind of a fine, and they could continue to  
pay the fine every year or something like that until  
they do get it fixed or something.

MS. PORTER: Exactly. I know. But it's  
so different. It's so different.

But that's all I have, Mr. Chairman.

1 MR. ABERNATHY: Any other old business.

2 MS. PORTER: No old business. I think  
3 right now I am looking at perhaps having you-all  
4 reviewing another application. We'll see though. I  
5 need to go out to this person's property. They're  
6 saying that they may be able to pull their bulkhead  
back out of your jurisdiction. I know you probably  
want a meeting. I'm so sorry. I know. But remember  
we're trying to avoid wetlands impact. But for right  
now there aren't any applications to review, but I'll  
keep you posted.

7 MR. ABERNATHY: Okay. Any other items?

8 MR. SMITH: So the new guy, and I want  
some clarity, because I want to be able to vote on my  
own.

9 MS. PORTER: Yes.

10 MR. SMITH: And I looked at the  
flowchart. You guys call it the tree.

11 MS. PORTER: That's right.

12 MR. SMITH: I made some assumptions that  
perhaps are not correct as far as the high energy  
versus moderate energy and the measurements. So one of  
my questions is: Does the Wetlands Board or any -- is  
there any pocket of money, any grants out there that  
would help persuade people to repair their bulkheads  
with rip rap and make a living shoreline? I know  
Norfolk did some stuff, you know, with the Hermitage --

14 MS. PORTER: Right.

15 MR. SMITH: -- and in other places around  
Larchmont and ODU. So we're in a situation where we  
need to try to beautify.

16 MS. PORTER: Right. Right.

17 MR. SMITH: But we have, our demographic  
is not the most -- doesn't have the deepest pockets.

18 MS. PORTER: That's right.

19 MR. SMITH: Are there agencies out there  
that would maybe help match funds or encourage the  
living shoreline?

20 MS. PORTER: Do you know of any, Rachel?

21 MS. MAULORICO: Yeah. The Elizabeth  
River, conservation people like the Elizabeth River  
Project, they actually have a really large program that  
helps homeowners either match costs or help with costs  
for anything that's in the Elizabeth River system. So  
there is a website that they can go onto and find out  
more information under the Elizabeth River.

24 MR. SMITH: On their site?

25 MS. MAULORICO: They're the largest one  
that I've dealt with. There is also some wetlands

1 board who do the in lieu fees for compensation, and  
2 some of the ways that the wetlands boards help with  
3 that is there is a project that is a living shoreline  
4 and needs a little bit of funding. The wetlands board,  
5 of course, can pull into their in lieu fee fund and  
6 offer to help fund that. A lot of times that's for  
7 city parks or sometimes for homes and things of that  
8 sort. So that's an option that I think the City has so  
9 far.

10 MR. SMITH: So maybe we do some kind of  
11 campaign. Obviously we're not appealing to all of  
12 Portsmouth. We're appealing to, like, civic leagues  
13 perhaps where we target our energy or target our  
14 advertising.

15 MS. PORTER: Right.

16 MR. SMITH: So anyway, I am a new guy  
17 that had questions, and so I was thinking this, and  
18 then we talked about it at the site visit that, I know  
19 the best thing on the project would be to rebulkhead  
20 it, but which kind of went in the face of VIMS, and we  
21 don't rubber stamp and cookie cut everything.

22 MS. SIMMONS: Yeah.

23 MR. SMITH: However, it is our goal to do  
24 everything that we can to have living shorelines.

25 MS. PORTER: That's right.

MS. PORTER: Even if he had a high energy  
place -- and I know he's gone, and I hope I am not  
breaking protocol talking about something that just  
happened.

MS. PORTER: No.

MR. SMITH: But even in a high energy  
place, we should have removed the old bulkhead and done  
actually more severe stuff, which money might have been  
the deciding factor and not what's best for the Western  
Branch River. So I took in as much as I could and  
listened --

MS. PORTER: Yeah. Yeah.

MR. SMITH: -- and I had a couple of  
questions. But I have more questions that says next  
time we meet, I kind of want to be voting on my own. I  
kind of voted my heart with you guys, and there is only  
four of us.

MS. PORTER: That's a lot of pressure, I  
know.

MR. SMITH: Anyway, this -- if he was in  
a high energy, which you were saying, Keith, that he  
actually is in a high energy, that VIMS accounts for  
that as well, but we didn't follow that. We rebuilt  
things. And, of course, Williamson was talking about

1 how much work it would be to do the living shoreline  
2 thing. Well, that means money is what that means.

3 MS. PORTER: Right. Right. Right.

4 MR. SMITH: I've got a lot to learn, but  
5 my heart is my fellow citizens, my neighbors.

6 MS. PORTER: Did you feel comfortable  
7 with your decision?

8 MR. SMITH: Yes. Yes.

9 MS. PORTER: Okay. You did, that's the  
10 main thing. And, of course, there is pressure to do  
11 four affirmative votes, I know, and that was the only  
12 thing.

13 MR. SMITH: I didn't do it out of any  
14 kind of pressure or anything.

15 MS. PORTER: Okay. That's the main  
16 thing.

17 MR. SMITH: I feel comfortable with it,  
18 hearing what was said. I asked questions. I got good  
19 answers.

20 MS. PORTER: Right.

21 MR. SMITH: But I want to be able to feel  
22 even more confident the next time.

23 MS. PORTER: Of course, and that's fine.  
24 That's fine.

25 MR. WEAVER: That's what it's all about.

MS. PORTER: I think everyone is on the  
same page with you, because you-all do want to get  
people to build living shorelines. We do want to  
follow the VIMS guidance, and I do too.

MR. ABERNATHY: I appreciate your  
thoughts there, Don. I often look at the transition  
from the neighbors to your living shoreline. In this  
case where the bulkhead is there for the condos, trying  
to transition from that to a living shoreline could be  
more trouble because of erosion.

MR. SMITH: The high energy coming off of  
that bulkhead may impact that living shoreline.

MR. ABERNATHY: Plus storm drainage or  
storm runoff from shore to sea.

MS. PORTER: That's a very good point.

MR. WEAVER: There is a lot of boat  
traffic down there also.

MR. ABERNATHY: For a living shoreline  
you have to have a lot of slope down to that water,  
where he does not have a slope at all in his situation  
now.

MR. SMITH: Okay.

MS. SIMMONS: But you talk about one of  
the challenges, every time we have tried to try a

1 living shoreline in this area, the dynamics --

MR. SMITH: That's interesting.

2 MS. SIMMONS: -- the dynamics of this  
3 area.

MR. SMITH: There is always some  
4 justification for putting the bulkhead back.

MS. SIMMONS: Yes. I know that Norfolk  
5 has done it, and Elizabeth River Project has done it,  
6 but it seems like they don't have the same dynamics.  
7 Because we have gone to a lot of the meetings, and they  
8 showed us the nice glossy pictures, but it's not our  
9 land mass. Their land mass is -- even though it's just  
10 across the water, it's different than ours.

MR. SMITH: Mr. Watkins' house is very  
11 close to the shore, which gave you less room to do  
12 anything.

MR. WEAVER: That's right. That's right.  
13 Now if there is a new project, or if a person or a  
14 contractor has bought up all of this property on the  
15 water, then you can do it then without putting  
16 bulkheads in. You can put in a living shoreline over  
17 all of the properties at the same time instead of  
18 having it piecemeal, living shoreline here, a bulkhead  
19 here. It just won't work.

MR. SMITH: So what worries me though  
20 with the bulkhead is it doesn't really -- it changes  
21 the energy, but nothing is going to happen in front of  
22 that bulkhead. So if he was -- no vegetation, am I  
23 right?

MR. ABERNATHY: Well, no. He has  
24 vegetation there now, some.

MS. PORTER: He did.

MR. SMITH: Very little. There was a  
25 couple of pockets of it, but not enough to change the  
26 habitat very much to improve it. So anyway, so water  
27 coming off of that, there is still a lot of energy.  
28 And how long would we hope his bulkhead is going to  
29 last him? Is this a 10 year, 20 years?

MR. ABERNATHY: 15, 20 years.

MR. SMITH: 20 years. Okay.

MS. SIMMONS: What you'll find, and she's  
30 working on that, is we have to educate Portsmouth  
31 citizens. And with our budget situation and the  
32 flooding, we really haven't had the time and  
33 opportunity to really do an educational thing.

When I was in Norfolk, I was part of  
34 their board. They were able to set up an educational  
35 program in the park, and so they had workshops that the  
36 public came to. They also had, like, the citizens

1 group that worked with the City, and they worked in  
2 tandem. So it was a public/private partnership that  
3 they were able to initiate all of these particular  
4 ideas like the Hermitage. But we don't have that type  
5 of public/private partnership with the City. That's  
6 something we may consider building, a citizens' group,  
7 citizens' awareness group. We may want to build that,  
8 but that's how they were able to do that. It was a  
9 very extensive, extensive project, and the City and the  
10 community and the Elizabeth River -- Norfolk pays money  
11 to the Elizabeth River Project, pays about 10,000,  
12 \$15,000 to the Elizabeth River project for them to do  
13 those things. Our administration hasn't paid funds  
14 into that.

15 MS. PORTER: All right. Mr. Chair, I did  
16 have one thing to add.

17 MR. ABERNATHY: Yes.

18 MS. PORTER: Up here asking questions of  
19 our VMRC person, I did not introduce her. This is  
20 Rachel Maulorico. She's been very helpful so far, and  
21 I really appreciate her very much. We have gone out in  
22 extreme cold weather already, in mud, frozen mud  
23 puddles though, thank goodness.

24 MR. ABERNATHY: Welcome, Rachel. We've  
25 always had a very good experience with our VMRC reps,  
and we're looking forward to a good experience to you.

MS. PORTER: Absolutely. And that's all  
I need to say.

MR. ABERNATHY: Any other business, old  
or new?

MR. SMITH: I want to ask one more  
question.

MS. PORTER: Okay.

MR. SMITH: Do we have a map that  
identifies bulkheads or wetlands area that are in  
disrepair and might benefit?

MR. ABERNATHY: Funny that you should  
ask. Yes. It's up and running now through VIMS. You  
can go online. I was on it the other day looking at my  
house online. I will give you the website so you can  
go on, pull up. It will show you whether there is  
phragmites there, whether there is a hard bulkhead  
there, whether there is rip rap, whatever the shoreline  
is.

MS. PORTER: That's part of your  
training.

MR. ABERNATHY: It's a great tool to look  
at.

MS. PORTER: Okay. I will get back with

1 you about that training, because we need to get that  
going.

2 MR. ABERNATHY: If there is no other  
business, I'll entertain a motion to adjourn.

3 MR. WEAVER: I so move.

4 MR. ABERNATHY: Second. All in favor?  
(Vote)

5 Our meeting is adjourned.

(Meeting adjourned at 4:36 p.m.)

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1 COMMONWEALTH OF VIRGINIA AT LARGE, to-wit:  
2

3 I, Jill Hudnall Trail, a Notary Public for the  
4 Commonwealth of Virginia at Large, of qualification in  
5 the Circuit Court of the City of Norfolk, Virginia, and  
6 whose commission expires May 31, 2017, do hereby  
7 certify that this proceeding was recorded in Stenotype  
8 by me and reduced to computer printout under my  
9 direction; and that the foregoing constitutes a true,  
10 accurate, and complete transcript of such proceeding.

11 I further certify that I am not related to nor  
12 otherwise associated with any counsel or party to this  
13 proceeding nor otherwise interested in the event  
14 thereof.

15 Given under my hand and notarial seal this 16th day  
16 of March, 2016, at Norfolk, Virginia.  
17  
18  
19  
20

21 *Jill Hudnall Trail*  
22

23 JILL H. TRAIL  
24 NOTARY PUBLIC  
REGISTRATION # 198028  
COMMONWEALTH OF VIRGINIA  
25

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