

February 13, 2020

The regular monthly meeting of the Oxford Board of Port Wardens was called to order by the acting chairman, Robert Hyberg, at 6:00 p.m. on Thursday, February 13, 2020, in the meeting room of the Oxford Community Services Building.

Also in attendance was fellow port warden, Robert Trevorrow, and Administrator/Clerk-Treasurer, Cheryl Lewis.

The minutes of the meeting of January 9, 2020 were approved and accepted as distributed.

Administrator Lewis addressed the applicant stating that the board has 3 members and 1 alternate but the 2 members present could act as a quorum of 3. She added that the applicant could wait until next month's meeting for a full quorum but that the meeting could go ahead as planned, if the applicant were to choose to do so. The applicant responded that he wanted to move forward with the hearing.

Mr. Gene Slear, from Environmental Concern, Inc., thanked the board of expediting his application. He explained that a contract had been formed between Environmental Concern and NOAA, represented by Riley Construction, and funded by NOAA to construct a vegetated tidal wetland to protect 35 linear feet of the NOAA shoreline. Mr. Slear noted that the process had taken longer than expected and that he was not able to submit permits for this application until mid-January. However, all work needed to be completed by January 31st or within 7 to 10 days when all permits were in hand. He noted that MDE had issued the license for the work. Most of the work will take place on the lab property. However, the work will touch the property owned by Jamie Garner located at 104 Bayview Avenue. Between the Oxford Lab's dock and the Garner property a beach replacement and stone breakaway needed to be addressed and fixed as well due to their failing nature. Because the lab's property borders onto Ms. Garner's riparian rights and may go over the property line, the lab was required to file joint permits/applications. A license to do the work by the MDE has been given to both the lab and Jamie Garner. The applicants are now requesting approval from the Oxford Board of Port Wardens as well. In the information provided, exhibit 200 featured the existing conditions between the two properties with an existing sill and living shoreline, exposed pipes, and existing Phragmites along the side owned by the Oxford Lab and exposed fence footings and existing bulkhead and revetment on the Garner side. Exhibit 300 showed the proposed changes in which a low profile stone containment structure (sill) will be constructed to protect the channelward edge of a created 650 sq. ft. vegetated tidal wetland. The sills will be constructed by emplacing stone over geo-textile cloth. Clean sand fill will be emplaced behind the sills, to create the marsh planting plan. A low marsh will be planted with *Spartina alterniflora* and the high marsh will be planted with *Spartina patens* or equivalent. The existing bank will be graded to create a resilient and sustainable transitional habitat. Mr. Slear noted that there is a maintenance requirement that once approved, the area will need to be kept at an 85% minimum of plant coverage. Board member Trevorrow asked about the proposed removal of the existing Phragmites. Mr. Slear stated that the Phragmites would be eradicated and that only native plants will exist in the area. Mr. Slear added that his company had applied for a toxic materials permit from MDE and that they had been approved but got cut from the list for reasons he was not sure about. He also stated that the Phragmites would not grow in the marsh but would compete in the high marsh.

Administrator Lewis spoke stating that the neighbor next to the Oxford Lab, Jamie Garner, had signed the joint application to the state and that she too was granted approval for the project. Administrator Lewis asked Mr. Slear if he had contacted the Talbot Co. Soil and Conservation Department regarding

the possibility of a grading permit. Mr. Slear responded that it would not be necessary because the size of the project would be less than 5,000 sq. ft. Administrator Lewis noted that if that was the case, Mr. Slear would only need to complete the town's local sediment erosion form which would apply to all work done on the shore. This would also be necessary if someone would be bringing in in-fill as well and that approval of the application would be contingent on the sediment erosion form. Administrator Lewis also pointed out that the applicants had received Maryland approval on the joint application but not approval on the federal level. Mr. Slear referred to a letter attached to the permit application from Jonathan Stewart of the Eastern Region Tidal Wetlands Division that stated, in part that the "project qualified for federal approval under the MD State Programmatic General Permit" and that "that permit is also attached." Mr. Slear clarified that the permit referred to by Mr. Stewart was not actually attached as specified. Administrator Lewis responded that the town could obtain that and that she would get in touch with Mr. Stewart. In speaking with the Port Wardens members directly, she stated that in the motion it should be noted that the applicant has applied for a grant application, approved by the State of Maryland and granted Federal approval under the Maryland State general permit. She also added that the motion should include that sediment and erosion control approval would need to be come from the Oxford Town Office and approval for the project from the Critical Area Commission. Mr. Slear pointed out that information was provided to the CAC but that one does not get correspondence back from that commission unless they have a problem with it.

Mr. Slear stated that the Wetlands and Waterways Program of the MD Dept. of the Environment acts as a service coordinator which will submit a joint application to the federal office for evaluation. Mr. Slear produced a letter from the Maryland Wetlands and Waterways Program in which they had written that they would take care of that.

In going back in clarifying the findings, Administrator Lewis added that the board, in their review of the application, needed to ensure that the application had been approved by any applicable state and/or federal jurisdiction having authority over the same, and that the alteration would not have an adverse impact upon surrounding properties or riparian rights of others, or navigable waterways. It was noted that there were no adverse impacts upon the surrounding properties and that with regards to riparian rights, signatures from both the Oxford Lab and Jamie Gardner had been received. With regards to the waterways, this project would not extend far out enough into the waterways to create any real problem. With these findings in mind, Administrator Lewis stated that the board could approve the permit based on approval from the state in which the state has recommended the work can be done under the state's general permit and the submission of the Critical Area Commission form as part of the joint application to the state for the project. The applicant will still need to submit a soil and erosion application to the town office. As such, the project can be approved and the filed with the town office that will, in turn, process the permit. Acting Chairman Hyberg made a motion to accept the application as described by the Town Administrator Cheryl Lewis. The motion was seconded by Mr. Trevorrow with all in favor.

Administrator Lewis addressed Mr. Slear in stating that the minutes of this meeting would be put together and that the town office would be getting back to him and the state to get the final pieces needed to complete the application.

There being no further business, the meeting was adjourned.

Respectfully submitted,
Lisa Willoughby
Assistant Clerk