

August 24, 2010
Meeting to Discuss Commercial Work Boat Moorage
at VDOT Wharfs, Piers, Docks and Landings

Infrastructure

VDOT maintains certain wharfs as part of the Secondary System of State Highways. They have recently been approached by the Middle Peninsula Chesapeake Bay Public Access Authority about allowing commercial work boats/fishing vessels to tie up/moor at VDOT's wharf in Gloucester.

Question Posed by MP-PAA staff:

Is there anything in the Code of Virginia that allows VDOT to issue a permit to commercial vessels for overnight mooring to VDOT maintained wharves, or is there anything that prohibits the issuance of such permit?

VDOT Research Findings:

There is nothing in the Land Use Permit Regulations (24VAC-30-151) that allow VDOT to issue a permit for this type of request. VDOT staff was unable to find anything in the Code of Virginia, or in VDOT's regulations, that would specifically allow or prohibit VDOT from issuing permits to boaters for overnight moorings at VDOT maintained wharves. However, Section 33.1-67 includes wharves in the Secondary System of State Highways, and Section 33.1-69 vests VDOT with the authority to control, supervise and manage the Secondary System, and provides that maintenance and improvement shall be by the Commonwealth, under the supervision of the Commissioner.

Establishment of a Process and other VDOT concerns

While it would be a lengthy process, an addition the Virginia Administrative Code would be advisable to establish clearly the rules, regulations, requirements, and restrictions on such moorings. For example, the cost of the permit, any limitations on the types of vessels that could be moored at a VDOT-maintained wharf, limitations on the length of time during which the vessel may be moored, the number of permits that would be issued at any one time for a particular wharf, etc.

It would also be advisable to seek the input of the Virginia Marine Resources Commission regarding the issuance of permits for this purpose. While VDOT does have authority to control its wharves, it would be wise to give weight to a fellow state agency with a mission of "serv[ing] as stewards of Virginia's marine and aquatic resources, and protect[ing] its tidal waters and homelands, for present and future generations." It would not be advisable to be in a position where commercial fishing vessels were obtaining permits to moor at VDOT wharves to avoid VMRC restrictions and regulations.

Allowing long-term rights could prevent others from using the facility for what it is intended for; short term use. There are permit conditions we could apply that might ameliorate that particular concern (for instance, only allow for certain hours, like overnight). We do need to investigate further: A discussion with R/W (since this is like leasing something to someone), contacting the Virginia Marine Resources Commission regarding restrictions that could be added to the permit, contacting DEQ to determine whether permitting would trigger requirements for commercial

docks. For example, § 62.1-44.33 discusses establishment of no-discharge zones for areas where boats are moored. A contact at DEQ is Bert Parolari in their Tidewater office; his number is 757-518-2166.

A separate but related issue is the management of sanitary facilities. The Virginia Department of Health will also need to be coordinated with to ensure safe and sanitary conditions are found at a public wharf.

Another Approach: PAA requests ownership

1. § [33.1-223.2:17](#). Commonwealth Transportation Board may transfer interest in and control over certain highways, highway rights-of-way, and landings.

Notwithstanding any contrary provision of this title, the Commonwealth Transportation Board, upon receipt of a written request from a public access authority established pursuant to Title 15.2 and without first abandoning or discontinuing such highway, highway right-of-way, or landing, may transfer to such authority any and all rights and interests of the Board in such highway, highway right-of-way, and landing as the Board may deem in the public interest. Such transfer may be either with or without compensation from the authority. (2007, c. [304](#).)

2. Establish a public mooring field off shore of various VDOT wharfs to assist with the mooring of commercial vessels

Precedents for transfer

Given that [33.1-69.1](#) transfer to Department of Game & Inland Fisheries mentions “landings, wharves, and docks” it stands to reason that [33.1-223.2:17](#) includes “landings” as well as wharves, docks or piers. I have requested an interpretation.

Property Management would not lease landings to private individuals. We do lease to other State Agencies to operate for public use. Public use is the operative phrase for anything we do with these landings unless they are in disrepair and no longer used.

VDOT Infrastructure

In a listing of Public Landings, Wharves and Docks dated May 6, 1977; Sedger Creek Landing on Perrin River and King Landing on Perrin River, Route 645 in Gloucester County are included.

A May 2010 listing shows the following facilities.

Geographic Jurisdiction (S2)	Inventory Route (F5D)	Structure Number - Virginia (S4)	Federal Structure ID (F8)	Route/Route Name	Crossing (F6)
Gloucester County	1101	9002	8554	PERRIN CREEK RD.	PED DOCK SEDGARS CK
Gloucester County	1303	9001	8555	WILLIAMS LANDING	PED WHARF @ TIMBERNEK CK
Gloucester County	651	9000	28124	BROWNS BAY ROAD	PED WHARF @ BROWN BAY
Richmond County	638	6046	14804	JONES CREEK RD.	LANDING DOCK @ RAPPNK RV
Middlesex County	1101	6010	23964	LOVERS LN.	DOCK @ JACKSON CREEK
Northumberland County	731	6033	12792	CRANE'S LANDING RD	CRANE'S CREEK

Docks and wharfs that VDOT currently maintains (May 2010) in the Fredericksburg District.