



**The Mount Vernon Council of Citizens Associations, Inc.**

P.O. Box 203, Mount Vernon, VA 22121-9998

<http://www.mvcca.org>

Supervisor Dan Storck  
Planning Commissioner Walter Clarke

Dear Supervisor Storck and Planning Commissioner Clarke,

Oct 15, 2021

Ref: SB 776 Living Shorelines

The attached MVCCA Resolution regarding concerns over the SB 776 and Fairfax County's implementation policy requiring living shorelines is forwarded for your serious consideration.

Our membership, many of whom live on tidal streams and the Potomac River, are very concerned over the ambiguity of the language in this bill and the staff's recommended implementation policy. We believe that these homeowners should be grand-fathered and therefore be allowed to keep and if necessary, repair their sea walls and/or riprap if damaged or simply in need of repair. We believe that the grand fathering should run with the land.

While the County's Wetlands Board stated in their meeting with the MVCCA ER committee Oct 14, 2021, that they are here to help homeowners successfully meet the SB776 law, we found their comments to be also vague and contradictory in some cases, for example "what exactly is a fetch?". Furthermore, while some vagueness is needed in order to allow for each case to be adjudicated independently, we still have concerns that the decisions are very subjective. Hence, our position they current riprap and/or sea walls must be grand-fathered and run with the land.

Thank you for your support of our resolution.

Regards,

*Katherine Ward*

Katherine Ward  
Co-Chair  
MVCCA

MVCCA (ER) Senate Bill 776 Living Shorelines Resolution 01-2021

WHEREAS rip rap and sea walls have been the methods of choice for the stabilization of shorelines in Virginia, including the Mount Vernon District, and in many other local communities;

WHEREAS the loss of wetlands is and has been a concern because wetlands serve multiple environmental functions and the law arising from Senate Bill 776 constrains development to wetlands of lesser ecological significance and non-vegetated wetlands;

WHEREAS the law arising from Senate Bill 776 establishes living shoreline as the preferred alternative for every permit. The law arising from SB 776 specifically states: “The Commission shall permit only living shoreline approaches to shoreline management unless the best available science shows that such approaches are not suitable. If the best available science shows that a living shoreline approach is not suitable, the Commission shall require the applicant to incorporate, to the maximum extent possible, elements of living shoreline approaches into permitted projects.” Thus, the consideration of practicality would only arise if the best available science shows that a living shoreline is not suitable.

WHEREAS, neither the law arising from Senate Bill 776 nor the accompanying guidance adopted by the Virginia Marine Resources Commission provide any direction on the consideration of cost, suitability, or other impacts to guide decisions on whether to require that existing sea walls or rip rap be removed and a living shoreline installed;

WHEREAS the removal of a sea wall or rip rap and creation of a living shoreline will 1) be more expensive than replacing/maintaining a sea wall or rip rap, 2) require a landowner to reduce otherwise usable property to create the required slope for a living shoreline and can result in the loss of beneficial vegetation and trees; and

WHEREAS the law arising from Senate Bill 776 provides no goals but opens every review to a highly subjective decision.

THEREFORE, BE IT RESOLVED, the Mount Vernon Council of Citizens’ Association believes that protecting wetlands is important but also believes that it is important to protect property interests of Mount Vernon property owners;

THEREFORE, BE IT FURTHER RESOLVED, that establishing living shorelines as the preferred alternative without providing any guidance on the impacts to property owners with previously approved or existing rip rap or seawalls, is inequitable and requires clarification;

THEREFORE, BE IT FURTHER RESOLVED, that in order to provide for clarification on the interests of property owners, we ask that the Fairfax County Board of Supervisors direct the

Wetlands Board to adopt a policy to protect the interests of waterfront property owners with existing sea walls or rip rap; and

THEREFORE, BE IT FINALLY RESOLVED, that if the Wetlands Board cannot provide protection to current and future property owners of existing seawalls and rip rap, then the MVCCA asks that the Fairfax County Board of Supervisors to ask our elected Virginia representatives to modify the law arising from Senate Bill 776 to provide for protections through grand-fathering for current and future property owners with sea walls and rip rap.

Approved by the MVCCA Environmental and Recreation Committee on Oct 6, 2021 and the MVCCA Board on Oct 12, 2021 and reaffirmed on Oct 15, 2021.