

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD  
MINUTES**

**Thursday November 13, 2014**

**A. ROLL CALL**

**ABSENT**

David Gussman  
John Hughes  
William Apperson  
Charles Roadley  
Larry Waltrip

**OTHERS PRESENT**

County Staff:

Scott Thomas, Director Engineering and Resource Protection  
Allison Kotula, Assistant County Attorney  
Greg Johnson, Senior Inspector  
Melanie Davis, Secretary to the Board

**The responsibility of this Board is to carry out locally the Commonwealth policy to protect against and minimize pollution and deposition of sediment in wetlands, streams, and lakes in James City County, which are tributaries of the Chesapeake Bay.**

**B. MINUTES**

The September 10, 2014 Board Meeting minutes were approved as written.

**C. PUBLIC HEARINGS - None**

**D. BOARD CONSIDERATIONS**

**1. CBE-14-041: Xanterra – Extension request for exception granted 11/13/13**

Senior Inspector Greg Johnson presented the following extension request for RPA encroachment on the proposed Riverwalk project:

Mr. Kevin Kolda of Kingsmill Resort, on behalf of Xanterra, requested an extension to CBE-14-041 on October 8, 2014. This exception expires on November 13, 2014. The request does not meet the deadline for such requests as outlined in the approved exception. The reasoning for the six week notification is so that the exception does not expire before it can be brought back before this Board for an extension request. In this case, the original approval expires tonight, therefore has not expired before this Board can act upon the request. The applicant is requesting a two-year extension to this exception due to logistical problems associated with the funding of this project and plans to have the project started within the next two years. All permit conditions required within the original approval for CBE-14-041 shall apply to the permit extension, with the exception of the expiration date, which shall be November 13, 2016. Staff concurs with this request and recommends that the Chesapeake Bay Board extend the expiration date to November 13, 2016.

Mr. Roadley stated he believed a portion of this project had been denied by VMRC and asked if a revised plan had been submitted.

Staff responded that a revised plan had not yet been submitted and this extension was only for the encroachment into the RPA not the submerged lands portion of the plan.

Mr. Hughes made a motion to adopt the resolution to grant the 2-year extension of the exception for the Chesapeake Bay Board Case CBE-14-041 for the Kingsmill Riverwalk project at 1000 Kingsmill Road, Parcel ID #50401000013.

The motion was approved by a 5-0 vote.

**RESOLUTION**  
**GRANTING AN EXTENSION OF AN EXCEPTION 5040100001**

WHEREAS, Kevin Kolda with Xanterra Kingsmill, LLC (the "Applicant") has requested an extension of the exception granted by the Chesapeake Bay Board of James City County (the "Board") on November 13, 2013. The exception request is for use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel No. 5040100001 and further identified as 1000 Kingsmill Road in the Kingsmill subdivision (the "Property") as set forth in the application CBE-14-041 for the purpose of installing an asphalt and concrete multiuse path, wooden steps, retaining walls, gravel parking, and a wooden boardwalk and pier; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, having conducted a public hearing on November 13, 2013, and pursuant to the current request for an extension, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

1. The exception request is the minimum necessary to afford relief.
2. Granting the extension will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code, and is not of substantial detriment to water quality.
4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.
6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:
  - 1) The applicant must obtain all other necessary federal, state, and local permits as required for the project.
  - 2) Full implementation of site plan SP-0086-2013, once approved by various County agencies.
  - 3) A surety of \$50,000 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation plantings.
  - 4) This exception request approval shall become null and void if construction has not begun by November 13, 2016.
  - 5) Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

**2. CBE-14-051: Kerr Environmental/Greenfield Partners - Extension request for exception granted 12/11/13**

Senior Inspector Greg Johnson presented the following extension request for RPA encroachment for a gravity sewer and permanent maintenance easement on the Stonehouse Landbay 3 project:

Mr. Curtis Hickman, on behalf of Mr. Mike Etchemendy of Greenfield Partners, requested an extension to CBE-14-051 on October 21, 2014. This exception expires on December 11, 2014 and the request meets the deadline for such requests as outlined in the approved exception. The applicant is requesting a two-year extension to this exception due to logistical problems associated with the funding of this infrastructure project. All permit conditions required within the original approval for CBE-14-051 shall apply to the permit extension, with the exception of the expiration date, which shall be December 11, 2016. Staff concurs with this request and recommends that the Chesapeake Bay Board extend the expiration date to December 11, 2016.

Mr. Hughes made a motion to adopt the resolution to grant the 2-year extension of the exception for the Chesapeake Bay Board Case CBE-14-051 for the Stonehouse Landbay 3 gravity sewer and maintenance easement.

The motion was approved by a 5-0 vote.

**RESOLUTION**  
**GRANTING AN EXTENSION OF AN EXCEPTION**  
**0440100029, 0440200002, 0440100033, and 0530100017**

WHEREAS, Kerr Environmental on behalf of Greenfield Partners LLC (the "Applicant") has requested an extension of the exception granted by the Chesapeake Bay Board of James City County (the "Board") on December 11, 2013. The exception request is for use of the Resource Protection Area (the "RPA") on parcels of property identified as JCC RE Tax Parcels 0440100029, 0440200002, 0440100033, 0530100017 and further identified as 9235, 9340 and 9315 Fieldstone Parkway and 9683 Mill Pont Run in the Stonehouse subdivision (the "Property") as set forth in the application CBE-14-051 for the installation of a gravity sanitary sewer and permanent maintenance easement; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, having conducted a public hearing on December 11, 2013, and pursuant to the current request for an extension, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

1. The exception request is the minimum necessary to afford relief.
2. Granting the extension will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code, and is not of substantial detriment to water quality.
4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.

6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:
  - 1) The applicant must obtain all other necessary federal, state, and local permits as required for the project.
  - 2) Full implementation of the approved plan of development, County Plan No S-0048-2008.
  - 3) Replanting of the temporary construction easement (16,266 sqft).
  - 4) Surety of \$5,000 will be required in a form acceptable to the County Attorney's office to guarantee the replanting.
  - 5) Preserve 14,810 sqft of non-RPA in Land Bay 3. This area shall be placed within a conservation easement and dedicated to James City County.
  - 6) Payment of \$8,734.70 into the County established Chesapeake Bay Mitigation Fund.
  - 7) Signed letters of permission shall be submitted to the Engineering and Resource Protection Division for all offsite property owners affected by this proposal prior to work commencing. This includes 2J Investments and Stonehouse HOA.
  - 8) All improvements on the Stonehouse HOA property that are damaged by the installation of the sanitary sewer line shall be replaced, including landscape materials, fencing and sidewalk/trail.
  - 9) This exception request approval shall become null and void if construction has not begun by **December 11, 2016**.
  - 10) Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

## **2. Calendar Year 2015 Meeting Schedule**

All Board members agreed to adopt the 2015 Chesapeake Bay Board meeting schedule as presented.

## **3. Election of Officers for 2015**

Mr. Roadley moved that David Gussman be reappointed as Chair. All members were in favor.  
Mr. Gussman moved that William Apperson be reappointed as Vice-Chair. All members were in favor.  
Melanie Davis was reappointed as Secretary. All members were in favor.

## **E. MATTERS OF SPECIAL PRIVILEGE**


Mr. Hughes stated that he had informed staff of a citizen report of possible encroachment into the RPA and staff would be investigating.

All Board members thanked the Staff for their support and Mr. Apperson welcomed Mr. Greg Johnson as this was his first case presentation to the Boards.

## **F. ADJOURNMENT**

The meeting adjourned at 7:15 pm

  
William Apperson  
Chesapeake Bay Board Vice Chair

  
Melanie Davis  
Secretary to the Board