

October 22, 1975

At a special meeting of the Wetlands Board of James City County, held in the Courthouse, Williamsburg, Virginia on the twenty-second day of October, nineteen hundred and seventy-five, there were present: MRS. CARY FUQUA, Chairman; MR. LEONARD HARRIS, Vice-Chairman; MRS. MARGARET HARRISON, MR. GERALD OTEY and MR. DAVID WARE.

OTHERS: Craig G. Covey

RE: MINUTES

Upon a motion by Mrs. Fuqua, seconded by Mr. Harris and passed unanimously the minutes of the meeting of April 2, 1974 were approved as printed.

RE: PUBLIC HEARING - CASE NO. WB-1-75

Application of Jerry O. Tarlton for a wetlands permit to fill wetlands area adjacent to the Chickahominy River.

The Chairman opened the public hearing and recognized Mr. Newton. A petition bearing the names of twenty-two property owners was presented for the record by Mr. Newton. The petition is on file in Case File No. WB-1-75 in the office of the County Administrator.

Mr. Ware inquired of Mr. Newton that marine life as indicated in the petition is affected or exists. Mr. Newton replied that frogs and some fish have been known to be plentiful in the area.

Mr. Harris inquired of Mr. Newton if in his opinion the road construction had caused erosion damage which affected the wetlands.

Mr. Newton replied that some had but only in a limited area near the edge of the marsh.

Mr. Fred Skates representing the Cypress Point Civic Association, an association of thirty-nine members, spoke in opposition to the filling of the particular wetland in question and all wetlands in the area. In addition Mr. Skates indicated that fill material was obtained from a barrow created by the applicant and in Mr. Skates' opinion the barrow was probably in violation of a County law also.

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Mr. Bernard Lee spoke indicating his concern over two problems: (1) deep ruts in the roads have been caused by the construction vehicles used by Mr. Talton. These ruts made passage by an ordinary automobile very difficult; (2) blockage of natural drainage from an area of approximately ten to twenty acres has caused a ponding affect over approximately a one-half acre area. The result has been a larger production of mosquitos this summer than usual.

Mr. Harris questioned Mr. Lee regarding the tidal conditions relative to the blockage of natural drainage. Mr. Lee indicated that the water did rise and fall due to tides through the area and that natural water did drain from the higher ground to the river through the area blocked by Mr. Talton. The blockage was caused by the construction of a road without a culvert. Even with recent heavy rains the road still retains a pond-like body of water on its inland side.

Mr. Jess Ross stated that in his opinion the road question was not directly related to the filling request by the applicant and that the stoppage of run-off water was desirable.

Mr. W. A. Lawson, an adjacent land owner, indicated that water use to come in and out of the area and that in the spring-time ducks and fish were noted in the area. In his opinion, the result of Mr. Talton's filling activity had been the production of nothing but a mosquito bed.

Mr. Otey asked Mr. Lawson if the wildlife observed in the area were tame or wild. Mr. Lawson said that some ducks were wild and others were tame.

Mr. E. E. Wiley indicated that he had seen others playing in this area now filled by Mr. Talton. He further indicated that he did not object to the filling by Mr. Talton provided it were done properly.

Mrs. Louise Keller, a property owner of twenty years, indicated that this was the first time that anyone in the area had to go to court to solve community problems.

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Mrs. William Dunn spoke indicating that as next door neighbors to Mr. Talton they had observed wood ducks, herring and others in this area but not recently.

Mr. Larry Bailhoff, a home owner on Cedar Drive, stated that what Mr. Talton had done was to make a big mess which was a detriment to adjacent property owners and the community as a whole.

Mr. Talton asked the Chairman to inform the residents of the Cypress Point area why he had not made further improvements to the property since April. The Chairman indicated that Mr. Talton had been required to stop all construction pending the final decision by Judge Zepkin.

Mr. Otey asked if Mr. Talton intended to fill any additional wetland area on the subject property. Mr. Talton indicated he did not intend to do so but would maintain erosion control measures provided the court allows. Mr. Otey further asked if Mr. Talton would be willing to restore the flow-through condition of natural and tidal waters. Mr. Talton indicated that he would if the court would allow.

Mr. Jerry Talton, Jr. speaking on behalf of his father's application stated the reasons for his father's filling of the property. The reasons given were: (1) The recession had affected his father's business and he needed work for his heavy equipment. (2) His father assumed that he might be covered under the Grandfather Clause since Mr. Otey had previously been filling this property. (3) Snakes were prevalent in the area and his mother had requested that something be done to make the property more livable. Mr. Talton also mentioned that the local home owners association which owned a parcel of ground adjacent to his father had not appreciated what could be called the over use of that property by his father by parking vehicles on that property. The filling activity gave the home owners association and others in the area, in his opinion, a way to complain because they do not really like his father. In closing, Mr. Talton asked that the matter of construction of a small road and the clearing and filling of this property to make it more livable be considered

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in its proper perspective and not blown out of proportion.

Mrs. Jerry Talton spoke indicating that when the land was purchased from Mr. Otey, they understood it not to be wetlands and the filling was done to clean up the snakes and make the marginal conditions of the land less offensive for a home site.

The Chairman closed the hearing and instructed the members of the Board that the applicant's request must be viewed as if it were made two years ago as a request to arrest an erosion problem which affected Mr. Talton's back yard.

Mr. Harris spoke pointing out that the application was void of engineering data and any proposals relative to erosion control and for this reason he could not approve the application as presented.

Mr. Ware voiced considerable concern about being placed in the position of deciding upon the case with such a time period particularly after hearing the comments of the people relative to the present conditions and finding a void of data about what should have been done had this been considered two years ago as an erosion prevention matter.

Mr. Otey referring to his past experience and knowledge of the Chickahominy area indicated that the area in question is in reality an unproductive swamp versus thousands of acres of productive marsh land along the Chickahominy River. For this reason, he indicated, man should be able to fill the land for his habitat since he has the same right as do animals and other living things in the wood swamp.

Mr. Ware moved, seconded by Mr. Otey that the applicant's request be granted. Upon roll call vote as indicated below the applicant's request was denied three to two.

<u>MEMBER</u>	<u>VOTE</u>
Mrs. Cary Fuqua	Nay
Mr. Leonard P. Harris	Nay
Mrs. Margaret Harrison	Nay
Mr. Gerald J. Otey	Yea
Mr. David W. Ware	Yea

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4. ADJOURNMENT

There being no further business to come before the Board,  
the meeting was adjourned at 9:05 P.M.

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Leonard P. Harris  
Secretary

  
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Mary Cary Fuqua  
Chairman

At a regular meeting of the Wetlands Board of James City County, held in the Courthouse, Williamsburg, Virginia, on the thirteenth day of January, nineteen hundred and seventy-seven, there were present: MRS. CARY FUQUA, Chairman; MRS. MARGARET HARRISON; MR. ROSS DAVIS and MR. GERALD OTEY.

OTHERS: Mr. William F. Brown  
Mr. Henry H. Stephens

RE: MINUTES

Upon a motion by Mrs. Fuqua, the minutes of October 22, 1975, were unanimously approved.

RE: ELECTION OF OFFICERS

Mrs. Fuqua nominated Mr. Ross Davis for Chairman. Mr. Otey seconded the nomination. There being no further nominations, the nominations were closed. Mr. Davis was elected Chairman by unanimous vote.

Mrs. Harrison nominated Mr. Harris for Vice-Chairman. Mrs. Fuqua seconded the nomination. There being no further nominations, the nominations were closed. Mr. Harris was elected Vice-Chairman by unanimous vote.

RE: MEETINGS

A discussion was held regarding meeting dates. The Chairman directed that the Board will consider holding regular Quarterly Meetings on the 2nd Thursday of January, April, July, and October at 7:30 P.M. in the Courthouse.

RE: CASE NO. WB-1-75 (Jerry O. Talton)

The Board discussed that this case had not been resolved to the satisfaction of the adjoining property owners, but that there

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