

WETLANDS BOARD

MINUTES

NOVEMBER 14, 1990

A. ROLL CALL

Present:

Henry Lindsey
John Hughes
Carolyn Lowe
Ralph Cobb
David Gussman

OTHERS PRESENT:

Bernard M. Farmer, Jr. Secretary to the Board
Leo Rogers, Assistant County Attorney
John Patton, Code Compliance Officer

B. MINUTES

The minutes of the October 10, 1990, meeting were approved as presented.

C. OLD BUSINESS

None

D. NEW BUSINESS

Case No. W-21-90. VMRC #90-1646-5
James G. Marshall-7252 Canal Street
Tax Map (19-1); Parcel (9-52)

Mr. Farmer stated that James Marshall, the owner, had applied for an after - the - fact wetlands permit for the construction and backfilling of approximately 75 linear feet of of tongue and groove bulkheading, to repair damage to an existing ramp, and to extend an existing pier at 7252 Canal Street located in the Chickahominy Haven Subdivision. He further stated, a site visit was conducted by the Code Compliance Office and VIMS. Wetlands impacted on the property consist of approximately 103 square feet of nonvegetated wetlands. In April 1990, a Stop Work Order was issued for construction without the necessary permits. At that time it appeared that approximately 75% of the proposed work had been completed.

The bulkhead had been constructed and backfilled to a point where it is impossible to determine if adequate engineering principles or construction techniques were used to prevent premature failure. A review of drawings accompanying the application indicates improper and inadequate engineering that will result in premature failure.

It is the staff recommendation that approval for the permit be denied due to inadequate design and construction practices. If the applicant wishes to proceed with the project it is recommended that he contact the Shoreline Erosion Advisory Services (SEAS) of the Virginia Department of Conservation and Historic Resources for professional advice, or hire qualified professional design assistance. If he chooses to abandon the project the illegal structure should be removed and the shoreline restored to its vegetated state. Failure of the applicant to reapply for wetlands permit, or amend the existing permit, or voluntarily restore the disturbed wetlands should be pursued as a wetlands violation.

Mr. Gussman asked if the project is 75% complete how much work has been done since the Stop Work Order was issued.

Mr. Farmer stated no work had been done since the Stop Work Order was issued.

Discussion ensued regarding the construction of the bulkhead, the condition of adjacent properties, and the staff recommendation.

Mr. Lindsey opened the public hearing.

No one was present who wished to speak on the case.

Mr. Lindsey closed the public hearing.

Mr. Hughes moved to reject the permit application and give the applicant 120 days to amend or resubmit to the Board before the Board would act on the violation.

The vote for approval of the motion was unanimous.

Case W-22-90. James T. Wood - 213 Turner's Neck Rd.

Mr. Farmer stated that a substantial amount of clearing of tidal vegetated wetlands was taking place at 231 Turner's Neck Rd. at or near Yarmouth Creek. He estimated anywhere from 3,000 to 11,000 square feet of wetlands has had debris and silt placed on it. Mr. Farmer presented aerial photos to further explain which areas had been disturbed and to explain the estimated amount of disturbed area.

Ms. Lowe asked how much land had been clear cut.

Mr. Patton answered 7 acres.

Mr. Farmer stated a video was available if the Board would like to view it to better understand the violation.

Mr. Farmer explained where the County was in its enforcement process. He stated The Marine Resource Legislation passed by the 1989 General Assembly had been followed precisely. He also stated the Public Hearing is to hear information regarding the violation and that the Board is in the position to issue a Restoration Order to order disturbed Wetlands restored. The Board is also in the position to assess a one time civil charge for the violation. Mr. Farmer stated the environmental impact was considered minimal and the lack of conformity was considered moderate and recommended a charge of \$1,000 to 2,000 be assessed. He stressed the fact that this in no way affects the opportunity to pursue legal actions through the courts, and that the law provides as much as \$25,000 per day be assessed for the violation. If Mr. Wood fails to adhere to the Restoration Order this would be handled as a separate and distinct violation. Mr. Farmer and Mr. Patton distributed sample copies of a Restoration Order and Monitoring Plan and offered to answer questions.

Ms. Lowe asked if the Restoration Order would only affect the removal of the silt.

Mr. Farmer answered yes.

Ms. Lowe asked if someone would give an exact amount of wetlands affected.

Mr. Farmer stated the staff would rely on a report from VIMS.

Mr. Lindsey opened the public hearing.

No one was present to speak, so the Board viewed the video supplied by the staff.

Ms. Lowe questioned Mr. Wood's reason for clearing.

Mr. Farmer explained Mr. Wood had cleared for 3 residences.

Mr. Lindsey closed the public hearing.

Mr. Lindsey asked the wishes of Board.

Mr. Hughes moved to issue a Restoration Order to restore the affected wetlands and to have Mr. Wood post a surety with the amount to set at the next Wetlands Meeting.

Discussion continued regarding the order and the surety. Mr.

Farmer requested the Board consider some time limits.

The Board agreed to 120 days for completion of restoration and 30 days for submission of a Monitoring Plan. Mr. Hughes agreed to so amend his motion.

The vote for approval of the motion was unanimous.

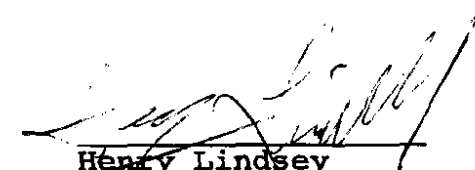
E. MATTERS OF SPECIAL PRIVILEGE.

Mr. Lindsey and Ms. Lowe were elected to serve as Chairman and Vice Chairman respectively for calendar year 1991.

Mr. Farmer stated the Williamsburg Group intends to appeal the decision concerning the proposed boathouse at Governor's Land.

F. ADJOURNMENT

The meeting was adjourned at 8:45 P.M.


Henry Lindsey
Chairman


Bernard M. Farmer, Jr.
Secretary