

WETLANDS BOARD

MINUTES

NOVEMBER 17, 1993

A. **ROLL CALL**

PRESENT

Mr. Lindsey
Mr. Cobb
Ms. McCleary

ABSENT

Mr. Gussman
Mr. Hughes

OTHERS PRESENT:

Bernard M. Farmer, Jr. Secretary to the Board
John B. Patton, Code Compliance Officer

B. **MINUTES**

The minutes of the AUGUST 11, 1993 meeting were approved with a minor correction.

C. **OLD BUSINESS**

None

D. **NEW BUSINESS**

W-34-93/VMRC 93-1293; Ms. Patricia Overman

Mr. Farmer presented the staff report stating that Patricia R. Overman has applied for a wetlands permit to replace approximately 50 linear feet of tongue and groove bulkhead two feet channel-ward of an existing failing bulkhead and to repair an existing pier at 7515 Oak Cove Road in the Cypress Point subdivision. The property is further identified as parcel (01-0-0013) found on James City County Real Estate Tax Map (19-1).

The property in question consists of tidal wetlands along the shoreline of the Chickahominy River with a mature stand of cypress trees channel-ward of the failing bulkhead. Representatives from Code Compliance visited the site on June 1, 1993. It is estimated that approximately 100 square feet of Sand/Mud Mixed Flat Community (Type XV) will be impacted by this request, but with a minimal adverse

WETLANDS BOARD
MINUTES
NOVEMBER 17, 1993
page 2

impact.

Staff recommends that a Wetlands Permit be granted for the replacement of the bulkhead with the following conditions:

1. That the bulkhead be placed no more than two (2) feet channel-ward of the existing bulkhead.
2. That the bulkhead be placed so as to minimize any adverse impacts on the existing cypress trees and cypress knees.
3. That the office of Code Compliance be contacted for inspections of the bulkhead, tie-backs and filter cloth prior to backfilling.
4. That the permit shall expire on November 17, 1994.

The Board questioned if the bulkhead could be constructed as requested without impacting on the cypress trees and were told it could be done.

Mr. Lindsey opened the public hearing.

The applicant was not present and no one requested to speak.

Mr. Lindsey closed the public hearing.

The Board briefly discussed the application and moved to approve the application with the conditions recommended by the staff. The motion was approved unanimously.

W-30-93/VMRC 90-0953; Governor's Land

Mr. Farmer gave an abbreviated description of the project explaining that this was a reapplication for a part of the shoreline stabilization project that the Board had previously approved but had not been completed prior to the expiration of the permit. A new permit was required since the applicant had not requested an extension prior to the expiration date of the original permits. Mr. Farmer went over the conditions to the permit recommended by the staff explaining that they were essentially the same as the previous recommendations but with some clarification as to archaeological preservation and the use of turbidity curtains. The staff recommended the following

WETLANDS BOARD
MINUTES
NOVEMBER 17, 1993
page 3

conditions:

1. The plan may be modified as proposed in the application if the inland Marina is approved. (VMRC 93-1129)
2. No land disturbing activity may occur in the vicinity of any archaeology site which may be eligible for inclusion in the National Registrar except in accordance with an archaeological treatment plan approved by the James City County Historic Commission.
3. A Land Disturbing Permits and Siltation Agreement for shoreline stabilization, with surety, must be in place with the Code Compliance Office prior to construction or land disturbing activity related to this permit.
4. The alignment must be staked and approved by the Code Compliance Office prior to any land disturbing activities or construction.
5. All shoreline construction work shall be done so as to minimize destruction of existing wetlands and to preserve the trees and vegetation along the bank. Approval must be obtained from the Code Compliance Office for access to any sensitive areas prior to construction.
6. A turbidity curtain shall be in place to reduce siltation going into the river from construction activity along the shoreline.
7. This permit shall expire on August 31, 1995.

Mr. Lindsey asked for clarification as to just exactly what was being requested. Mr. Farmer and Mr. Patton explained that the request was now for as was originally approved unless the proposed marina (W-31-93) is approved then the application would be modified to allow for the marina entrance.

Mr. Lindsey then opened the public hearing.

Mr. Michael Kelly of the Williamsburg Environmental Group, Inc. addressed the Board stating that he was present to answer any questions the Board might have regarding the project and stated he had no problems with the staff's recommended conditions. The Board had no questions for Mr. Kelly. No one else asked to address the Board

and Mr. Lindsey closed the public hearing.

Mr. Cobb asked for clarification as to what area was now being included that had been inadvertently left off the application they had seen. There being no further discussion from the Board, Ms. McCleary moved for approval of the application with the staff's conditions. It was seconded and approved unanimously.

W-31-93/VMRC 93-1129; Governor's Land Inland Marina

Mr. Farmer briefly outlined what the application was for, an inland marina with approximately 110 boat slips, a refueling dock, sanitation station, boat ramp, associated jetties and dredging, a beach area and a jetty and pier for the William and Mary College crew team. Mr. Farmer explained that this was a rather complicated project in that there were still unresolved issues regarding water quality impact of the project. These unresolved issues were the reason for the application package being delivered to the Board the day before the meeting. Mr. Farmer stated that the staff's scientific advisors at Virginia Institute of Marine Science were not in agreement with the consultant's conclusions regarding water quality impacts. Therefore it was his understanding that the applicant, Mike Kelly of Williamsburg Environmental Group, Inc., did not desire the Board to act on the permit at this time. Mr. Kelly affirmed that he wished to get his consultants and VIMS together to work the out differences. The Board discussed the procedural matters as to how best accommodate the applicants desires. It was decided that it was best to open the public hearing and address any questions the Board had at this time and then leave the public hearing open for the next meeting when a more detailed presentation would be made by both the staff and Mr. Kelly. Mr. Farmer pointed out that the question of Kepone contamination was a non issue at this point since the tests had been negative.

Mr. Lindsey opened the public hearing. Mr. Kelly spoke to the Board giving them a brief outline of the work already done in site selection and environmental impact studies associated with the project. He pointed out that the Virginia Department of Environmental Quality had already reviewed and approved the water quality model as submitted. But, he wanted to make certain that VIMS scientists had an opportunity to meet with his consultants and iron out any disagreements before asking the Board for a decision. He therefore asked the Board to table the application until the meeting next month. He emphasized that he wanted to present the application with no adverse comments from any reviewing agency. Mr. Jim Bennett, of Governor's Land Management Inc., spoke saying that timing was very important due to limitations on

permitted dredging times but they were committed to doing whatever was necessary to get the consultants together to work out any disagreements.

Ms. McCleary requested that at the next meeting the applicant clarify which of the two amounts of dredged material was correct and that they amplify on the contingency plans for spills. Ms. McCleary said she wanted the applicant to know that if a disagreement still existed between their consultant's position and VIMS position she would feel obligated to side with VIMS.

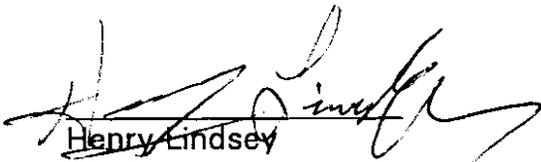
There being no further discussion, Mr. Lindsey tabled the application until the December meeting, leaving the public hearing open.

E. MATTERS OF SPECIAL PRIVILEGE

The Board regretfully acknowledged receipt of Mr. Cobb's letter of resignation. Mr. Lindsey pointed out that November was traditionally when they elected officers for the following year but suggested that they postpone that until more members were present. Ms. McCleary asked for an update on the Walker Ware case. Mr. Farmer said that the necessary notification time limit had been met and now the Assistant County Attorney would proceed with the necessary filings to bring the case to court.

F. ADJOURNMENT

The meeting was adjourned at 7:50 P.M.


Henry Lindsey
Chairman


Bernard M. Farmer, Jr.
Secretary