

WETLANDS BOARD

MINUTES

AUGUST 9, 1995

A. ROLL CALL

ABSENT

Mr. Hughes
Mr. Jones
Mr. Lindsey
Mr. Waltrip

Mr. Gussman

OTHERS PRESENT

Bernard Farmer, Zoning Officer
Jay Lipscomb, VMRC

B. MINUTES

Minutes of May 12, 1995 were approved.

C. OLD BUSINESS

None.

D. NEW BUSINESS

ZA-17-95; Dan Nice

Bernard Farmer presented the staff report stating that Mr. Dan Nice reapplied for a wetlands permit to construct 140 linear feet of wooden tongue and groove bulkhead along a man-made canal at 123 Branscome Blvd. in the Powhatan Shores subdivision. Mr. Nice's previous permit expired before work began. The property is further identified as parcel (10-13) found on James City County Real Estate Tax Map (47-3).

The property in question consists of vegetated wetlands and mudflat along a gently sloping bank of a man-made canal. It is estimated that approximately 420 square

feet of tidal area (Type XI, freshwater mixed community) will be impacted by this request. The request is that the bulkhead be placed 2 feet channelward of mean high water and tie in to two existing bulkheads at either end of the property. It is VIMS recommendation and staff concurs, that if a bulkhead is constructed at this location that it be placed landward of all wetlands vegetation in order to minimize the impact on the marine environment. This could be done by tying the bulkhead along the toe of bank above wetlands vegetation. It is the staff recommendation that a wetlands permit be granted for 140 feet of wooden tongue and groove bulkhead with the following conditions:

1. The bulkhead be aligned with the toe of the bank and the alignment be staked and approved by the office of Code Compliance prior to construction.
2. The bulkhead ends and any significant bends be identified in relation to at least two permanent features on the property for future alignment verification.
3. The office of Code Compliance inspect the tie backs, deadmen and filter cloth prior to backfilling.
4. The permit shall expire August 10, 1996.

Mr. Waltrip stated that last time they had a little problem determining where the line was going to be, and asked if that had been resolved this time?

Mr. Farmer stated that he felt it had been resolved consistent with the determination of the Board, it was determined that it could be in a single segment.

Mr. Lindsey said he was at the site earlier and stated that one of the three trees is directly in the line, between the two bulkheads. He asked what was decided last time in reference the trees.

Mr. Farmer stated he remembered the Board decided the bulkhead could be placed in a single segment between the two bulkheads and that the trees might have to be moved if necessary. The tide today was abnormally high, and it had been running a foot and half to two feet above normal for the last three days.

Mr. Lindsey and Mr. Waltrip further discussed the trees.

Mr. Hughes commented that the Board had previously gone through a discussion whether it should be a straight line or whether it should be segmented. The Board had discussions as to where the line should be. Initially there was a recommendation that the bulkhead be segmented and pushing it more landward, that running it from corner to corner actually pushed it more channelward then the way it was originally recommended by the staff. Mr. Hughes stated he recalled the recommendation back a year or so ago, was that the bulkhead be built in alignment with the bank which would have necessitated the thing to be made at least in three segments. Mr. Nice had wanted to make it a straight line from corner to corner, and Mr. Nice went as

far as running a line to show the board how it would look. It was more destruction of wetlands, however Mr. Nice had realized that he would probably lose the tree anyway. The Board left it up to the county and so it was determined that a straight line could be run.

Mr. Lindsey asked Mr. Hughes how it was approved the first time.

Mr. Hughes stated that the first time it was recommended that a bulkhead was not needed because it wasn't much of a slope and it was vegetated. Then they decided that a bulkhead could be placed, but that it had to be brought up to the edge of the lawn and it was decided that he did not want one. Since that time others have placed bulkheads and there has been some erosion due to the boat traffic. Mr. Nice has probably lost a foot and half to two feet since he's purchased the property.

Mr. Lindsey opened the public hearing.

Mr. Nice commented that everything has been stated and that he had drawings if anyone wanted to see them. He stated that he would try to save the pine tree if he could by going out approximately 12 to 18 inches then do a straight line from corner of pier to corner pier.

Mr. Hughes stated that the decision would be left up to the staff and that was a straight line.

Mr. Lindsey closed the public hearing.

Mr. Hughes moved to grant the wetlands permit with staff recommendations. The motion carried unanimously.

E. MATTERS OF SPECIAL PRIVILEGE

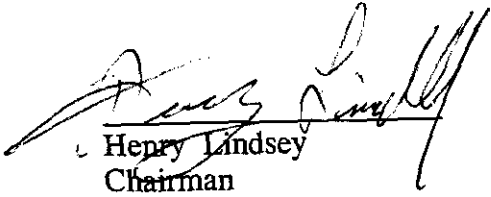
The judge did enter his final order in the Ware case. He fined Mr. Ware \$2,500.00 plus our direct expenses and VIMS expenses but not our attorney's fees. The survey was included in this. Mr. Farmer advised the Board a request for a new trial based on new evidence, that Mr. Ware is intending to file. He prepared it himself and his attorney would not sign it.


Mr. Jones asked if there was any work being done to correct the problem.

Mr. Farmer stated that we actually made an attempt to get on the property to inspect and gave him proper notice. Mr. Ware blocked an inspector in and would not allow us on the property. It appears we are going to have to appear before the judge to get a show cause order. What we suspect is that he simply spread the dirt around. We have applied with the court order to it full extent. We have every right to be there by federal court order, statute and written agreement by Mr. Ware. We called and gave him notice and he stated "no, don't come" and asked if we could come the following week. We went out anyway.

F. ADJOURNMENT

The meeting was adjourned at 7:22 P.M.


Henry Lindsey
Chairman


Bernard M. Farmer, Jr.
Secretary



MEMORANDUM

Date: May 13, 2015
To: Records Management
From: James City County Wetlands Board
Subject: Wetlands Board minutes from August 9, 1995

The following minutes for the Wetlands Board of James City County dated August 9, 1995, contain an error in Section 2. MINUTES where "The May 12, 1995 minutes were approved as presented" should read, "The May 10, 1995 minutes were approved as presented".

Please accept this correction for the August 9, 1995 Wetlands Board minutes.



John Hughes
Current Wetlands Board Chair



Melanie Davis
Current Wetlands Board Secretary