

**WETLANDS BOARD**

**MINUTES**

January 8, 1997 - 7:00PM

**A. ROLL CALL ABSENT**

Henry Lindsey  
John Hughes  
David Gussman  
James Jones  
Larry Waltrip

None

**OTHERS PRESENT**

Jacqueline White, Zoning  
Darryl E. Cook, Environmental Engineer  
Laura Grignano, VMRC

**B. MINUTES**

Approval of the August 14, 1996 minutes were approved as submitted.

**C. OLD BUSINESS**

None

**D. NEW BUSINESS**

W-22-96 George M. Fowler, 206 The Maine

Jackie White presented the case stating that George Fowler had applied for an after the fact wetlands permit to replace 230 linear feet of existing bulkhead and extend a boatslip for their property located at 206 The Maine in the First Colony subdivision. The property is further identified as parcel (2-76) found on James City County real Estate Tax Map (45-4).

Mr. Fowler contracted Coastal Piers to construct the bulkhead and boatslip extension. Coastal Piers has nearly completed construction. The bulkhead has been placed approximately 2 feet seaward of the existing bulkhead and the boatslip has been extended by approximately 50 feet. County personnel first became aware of the construction on December 6, 1996. Mr. Fowler and the contractor were subsequently notified of the permit requirements.

Representatives from the Environmental Division, along with VIMS and VMRC personnel visited the site on December 13, 1996. It is estimated that approximately 430 square feet of tidal area (Type XV Sand/Mud Flat) has been impacted. Nancy Ibisson of SEAS visited the site in January 1994.

If the Board decides to accept the construction of the bulkhead as it has been submitted, the staff recommends the following:

1. The bulkhead shall tie into the existing bulkhead on the adjacent property and have a return wall on the remaining end.
2. The filter cloth, tie backs and deadmen shall be inspected by the Environmental Division personnel.
3. The bulkhead ends and any significant bends shall be identified in relation to at least two permanent features on the property for future alignment verification.
4. Upland area shall be stabilized with vegetation.
5. A building permit must be obtained.
6. The permit shall expire on January 8, 1998.

Mr. Gussman inquired if staff would have recommended approval if plans would have been submitted prior to commencing work.

Ms. White responded that staff would have recommended approval but would have asked that it be brought more landward.

Mr. Waltrip asked if the contractor had established the 2 foot estimate.

Ms. White responded in the affirmative.

Mr. Lindsey opened the public hearing.

Mr. Rollin Collins, 208 The Maine and adjacent property owner. Mr. Collins spoke in favor of the permit stating that significant erosion to the waterfront in this area had occurred due to Hurricane Fran and that the seawall had eroded by several feet.

Mr. Waltrip stated that he had looked at the site today and noticed that there was a low lying area that appeared to have been filled in a long time ago. He then said there was a swamp area behind the property next to that behind the next piece of property which protruded into the flat area and probably filled in the area and created a barrier wall.

A member of the audience agreed with Mr. Waltrip and stated the area does take a beating from currents and that the topography could be a contributing factor as well.

Mr. George Fowler, the applicant, stated that the contractor, Coastal Piers, informed him that since there was an existing bulkhead and that this was a repair a permit would not be required. He further stated that he felt he needed to get the project done as significant erosion had occurred. He then asked the Board if they had questions.

Mr. Gussman referred to the letter Mr. Fowler wrote to the Board and inquired if the contractor supported the statement that the contractor gave him bad advice that a permit was not required.

Mr. Fowler responded in the affirmative.

Mr. Lindsey stated that he did not understand how the contractor did not know a permit was required as this was the type of work he does all the time.

Mr. Fowler responded that there are certain repairs that do not require a permit.

Mr. Darin Gouldrup, Coastal Piers the contractor, stated that he accepted full responsibility for failing to obtain the necessary permits. He further stated that he had spoke with VMRC and he now knows he should have gotten a permit. He indicated that he does work in York County and Hampton and he knew a building permit was required but he did not know that other permits would be required. He then stated that in the past he had discussed projects with VMRC and had received letters from them that certain repairs did not require permits. He apologized to the Board and to Mr. Fowler and said that he had lost time and money on this project and that he had used bad judgement and this would not happen again.

Mr. Lindsey asked the contractor who would absorb the cost of removing the bulkhead if the Board decided to deny the permit.

The contractor responded that he would absorb the cost. He stated he would tear out the new work and apply for the appropriate permits.

Mr. Hughes inquired as to how long the contractor had been in business and if he had a business licence in James City County.

The contractor responded that he had been in business for three years and had a business licence in the City of Newport News, but not in James City County.

Mr. Hughes told the contractor that as a licensed contractor he knows he should have gotten a building permit for the installation of the piles and decking. He stated that if he would have done that, then the County would have advised him that a wetlands permit would be required. He further stated that he would have suggested riprap or other options, as stones do not rot.

Mr. Fowler said that he had considered other options, however they were twice as expensive as the bulkhead.

Mr. Waltrip stated that he hoped the contractor learned how James City County does business and hopes he will not be back before the Board on another after the fact permit. He further stated that he felt tearing out the new bulkhead would be detrimental and was in favor of approving the permit.

Mr. Lindsey closed the public hearing.

Mr. Gussman inquired if the contractor's signature was required on the wetlands application.

Ms Grignano stated that as long as the contractor and the owner signed the contract for work to be done it was adequate.

Mr. Gussman moved that case W-22-96 be approved with staff's recommendations.

Mr. Jones stated his concerns that if the Board were to approve this permit, then the Board would be sending a message saying that it's alright to do the work prior to obtaining the necessary permits as it is easier to get forgiveness than permission. He further stated the he felt the Board would have recommended using riprap.

Mr. Hughes responded that in the past the Board has made the decision for work to be torn out. He stated that he felt that this was a quality job and should not be torn out. He further stated that the Board evaluates each case and when necessary, they will require that the work be torn out.

The motion was approved unanimously.

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

Mr. Lindsey stated that the annual Wetlands Symposium was being held on February 22 and the last day to register was January 24.

Election of Officers: Ms. White informed the Board that Mr. Bernard Farmer, Jr. would no longer hold the position of Secretary, but Darryl Cook, Environmental Engineer, would assume that responsibility as the Environmental Division now had the responsibility for Wetlands issues.

Mr. Hughes moved that Darryl Cook be approved as Secretary and Henry Lindsey be approved as Chairman.

The motion was approved unanimously.

Mr. Lindsey moved that John Hughes be appointed as Vice-Chairman.

The motion was approved unanimously.

Bylaws: Mr. Cook explained to the Board that the existing Bylaws needed to be updated to reflect that the Board meets on the second Wednesday of the month at 7:00pm.

Mr. Lindsey moved that the Bylaws be amended to reflect the meeting time for the Wetlands Board is the second Wednesday of the month at 7:00pm.

The motion was approved unanimously.

Mr. Gussman inquired as to who keeps track of the Board members terms of expiration.

Mr. Cook stated he would check into that as well as when an oath is required.

Mr. Hughes inquired as to the status of Walker Ware's restoration activities.

Mr. Cook responded that an application had been received by VMRC from Walker Ware to construct a boat ramp, a riprap revetment, and to fill the wetlands area that had been restored. He distributed a letter to the Board which notified Mr. Ware of the incomplete nature of his application and that staff would not support the fill request.

Mr. Hughes inquired if Mr. Ware had complied with stated requirements of the restoration order.

Mr. Cook stated the Mr. Ware's project was in a monitoring stage to see if the vegetation grows and is adequately restored. He said the County is presently working with VIMS on this issue.

Mr. Waltrip referred back to the comment he made earlier regarding the low lying area in Mr. Fowler's case. He stated a dike separates the marsh which is adjacent to a new home under construction. He further stated that he had been contacted by Mr. Hume who lives next to the new construction who was concerned about the erosion of the dike that separates the marsh area. He further stated that he felt this could be a future problem that the Board may have to address.

Mr. Lindsey inquired if the County was authorized to go on a neighbor's property to check on the status of this area.

Mr. Waltrip responded that Mr. Hume will talk to the neighbor. He stated Mr. Hume had a topography map and he would ask the neighbor to correct the problem as the Board does not have jurisdiction.

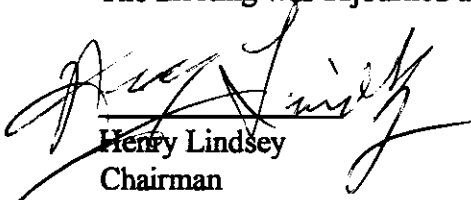
Mr. Cook responded that the County does not have legal jurisdiction but the County could inform him that the County had observed a problem and then explain the potential consequences if not corrected.

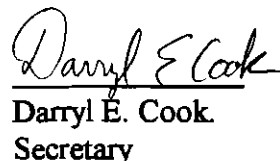
Mr. Cook inquired if the Board had a preference to abbreviated or verbatim minutes for future meetings.

It was the consensus of the Board that the Chairman would state the type of minutes to be taken at the beginning of each meeting. If it is a controversial case, then verbatim minutes would be taken for that case and the remainder would be abbreviated.

## **F. ADJOURNMENT**

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

  
Henry Lindsey  
Chairman

  
Darryl E. Cook  
Secretary