

**WETLANDS BOARD  
MINUTES**

**JULY 14, 1999 - 7:00PM**

**A. ROLL CALL ABSENT**

Henry Lindsey	None
Larry Waltrip	
James Jones	
David Gussman	
John Hughes (arrived after the first case was completed)	

**OTHERS PRESENT**

Darryl E. Cook, Secretary to the Board  
Traycie West, VMRC  
Environmental Staff

**B. MINUTES**

Approval of the May 12, 1999 minutes were approved.

**C. OLD BUSINESS - None**

**D. PUBLIC HEARINGS**

**1. W-9-99: Wayne S. Warren - 4107 South Riverside Drive**

Mr. Pat Menichino presented the case stating that Mr. Wayne Warren, property owner, had applied for a permit to install a 14' wide by 37' long boat ramp at 4107 South Riverside Drive in the Chickahominy Haven subdivision. The property is further identified as parcel (9-4) on the James City County Real Estate Tax Map (19-1).

The property in question is located along the Chickahominy River. Representatives from the Environmental Division visited the site on June 1, 1999. There will be up to 70 square feet of impact to Type XI Freshwater mixed wetlands for the installation of a boat ramp.

The purpose of this project is to allow a boat trailer access to the river. This proposed boat ramp will tie into an existing aluminum bulkhead (JCC Wetlands Permit W-24-97).

It is staff's recommendation that this application be approved with the following conditions:

1. The new boat ramp shall not exceed the 14' x 37' dimensions shown.
2. The methods employed for the installation of the boat ramp base materials and concrete shall be approved by the Environmental Division prior to the onset of construction.
3. The boat ramp aluminum sheet piles must be joined to the existing aluminum bulkhead.
4. The Environmental Division shall inspect the tie backs, deadmen and base stone prior to the installation of the 6" concrete slab.
5. Upland areas shall be stabilized with non-invasive vegetation.
6. An onsite preconstruction conference will be held between the applicant and the Environmental Division prior to the onset of construction.
7. This permit application does not include any provisions for proposed work landward of the existing aluminum bulkhead.
8. This permit shall expire on July 14, 2000.

Mr. Lindsey commented that the Virginia Institute of Marine Science recommended that the ramp be created as an open pile structure.

Mr. Lindsey opened the public hearing and as no one wished to speak, he closed the public hearing.

Mr. Gussman made a motion to approve case W-9-99 with staff's recommendations.

The motion was approved by a 4-0 vote.

2. W-30-98: U.S. Government/National Park Service: Jamestown Island

Mr. David Meador presented the case stating that the Colonial National Historical Park had applied for a wetlands permit for bridge repair and replacement work located on Jamestown Island. The property is further identified as parcel (1-1) found on James City County Real Estate Tax Map No. (55-3).

This permit application proposes the repair of deteriorated wood pilings and deck replacement for four bridges located on Jamestown Island. The repair of the wood piles will require the construction of temporary sand bag cofferdams. An Environmental Inspector visited the site on July 6, 1999. It is

estimated that approximately 2618 square feet of Type XII, Brackish Water Mixed Community will be impacted by this proposal.

It is the staff's recommendation to approve this application with the following conditions:

1. The Environmental Division shall be notified prior to commencing the work.
2. After construction, all disturbed areas are to return to their pre-construction elevations and shall be stabilized with native vegetation.
3. This permit will expire on July 14, 2000.

Mr. Waltrip asked how the vegetation next to the bridge was controlled.

Mr. Meador stated that the Park Service mows the wetlands vegetation adjacent to the bridge.

Mr. Lindsey asked if the impacts would be temporary or permanent.

Mr. Meador stated the impacts would be temporary so wetlands compensation would not be necessary.

Mr. Lindsey asked how they would control the dredged material.

Mr. Meador said the dredged material would be placed in an upland area.

Mr. Lindsey opened the public hearing and as no one wished to speak, he closed the public hearing.

Mr. Gussman made a motion to approve case W-30-98 with staff's recommendations.

The motion was approved by a 5-0 vote.

3. W-11-99: Tim Caviness - 110-A Archers Hope Road

Mr. Gerry Lewis presented the case stating that Mr. Tim Caviness had applied for a wetlands permit to install 175 linear feet of timber bulkhead at 110-A Archers Hope Road. The property is further identified as parcel (2-8-5) found on James City County Real Estate Tax Map (49-3).

The property in question is along College Creek. An Environmental Division inspector with other agency personnel visited the site on June 18, 1999. It is estimated that approximately 50 square feet of tidal area Type XII, Brackish Water Mixed and 300 square feet of Type XV, Sand/Mud Flat will be impacted by this application request.

It is the staff's recommendation that a wetlands permit be issued for this application with the following conditions:

1. Prior to any land disturbing or construction work, a preconstruction meeting with the Environmental Division personnel will be held on site.
2. The Environmental Division shall inspect the tie backs, deadmen and filter fabric prior to backfilling.
3. No trees shall be cut without the prior approval of the Environmental Division.
4. The upslope disturbed areas shall be stabilized with native vegetation.
5. After construction is completed the Environmental Division shall be contacted so a final inspection can be conducted.
6. The permit shall expire on July 14, 2000.

Mr. Lindsey opened the public hearing.

Mr. Danny Winall stated he was representing the applicant.

Mr. Jones questioned whether the use of riprap was considered in place of the bulkhead.

Mr. Winall said both options were considered but that they determined the bulkhead to be more cost-effective.

Mr. Lindsey closed the public hearing.

Mr. Jones made a motion to approve case W-11-99 with staff's recommendations.

The motion was approved by a 5-0 vote.

4. W-13-99: Harold C. Capps - 109 Lands End Drive

Mr. Gerry Lewis presented the case stating that Mr. Harold Capps had applied for a wetlands permit to install 112 linear feet of timber bulkhead at 109 Lands End Drive. The property is further identified as parcel (5-59) found on James City County Real Estate Tax Map (47-3).

The property in question is along a man made canal leading to Powhatan Creek. An Environmental Division inspector with other agency personnel visited the site on June 18, 1999. It is proposed that

approximately 784 square feet of tidal area (Type XV, Sand/Mud Flat) will be impacted by this application request. It is the opinion of our division that the permanent impact can be greatly reduced by moving the structure inland to the existing eroding scarp.

It is the staff's recommendation that a wetlands permit be issued for this application with the following conditions:

1. The entire structure shall be moved landward to the existing scarp. Encroachment shall not exceed 12 to 18 inches from the existing embankment.
2. Prior to any land disturbing or construction work, a preconstruction meeting with the Environmental Division personnel will be held on site.
3. The Environmental Division shall inspect the tie backs, deadmen and filter fabric prior to backfilling.
4. The upslope disturbed areas shall be stabilized with native vegetation.
5. After construction is completed, the Environmental Division shall be contacted so a final inspection can be conducted.
6. The permit shall expire on July 14, 2000.

Mr. Jones questioned what the wetlands impact would be if the bulkhead was moved back to the existing shoreline.

Mr. Lewis stated that the impact would be reduced to less than 200 square feet.

Mr. Waltrip questioned why the shoreline was so recessed from the adjacent bulkheads.

Mr. Hughes stated that it was because the previous owners did not bulkhead the shoreline.

Mr. Lindsey opened the public hearing.

Mr. Sydney Letz with Shoreline Environmental Services represented the applicant. He stated that the bulkhead should be moved out to line up with the other bulkhead; that it would have environmental impacts in that location. He also felt that the adjacent property owners approved the bulkhead based on its location being in line with their own bulkheads.

Mr. Wayne Warren commented that he lost three feet of shoreline before he put in a bulkhead.

Mr. Edward Way, President of the Powhatan Shores Homeowners Association stated that navigation and public safety are their concerns with the application and that they have not been able to review Mr. Capps plan. However, their preference would be to line all the bulkheads in a straight line.

Mr. Lindsey closed the public hearing.

Mr. Gussman supports the staff recommendation. He is concerned about the precedent that would be set by allowing that much impact to align the bulkhead.

Mr. Lindsey pointed out that the impact would be significantly reduced by moving it to shore.

Mr. Waltrip observed that the impact would be to nonvegetated wetlands and supported moving the bulkhead out to line up with the other bulkheads.

Mr. Hughes presented an alternative alignment. He proposed that the bulkhead be divided into three sections with the middle section being in alignment with the staff recommendation and then have the two ends connect to the ends of the existing, adjacent bulkheads.

Mr. Hughes then made a motion to approve case W-13-99 with the change to recommendation #1 as follows: The bulkhead shall be installed in three equal sections. The center one-third section of the bulkhead shall be installed such that it encroaches no more than 12 to 18 inches channelward from the existing shoreline. The two end sections of the bulkhead would then extend from the ends of the center third section to connect to the corners of the existing bulkheads on either side of Mr. Capps' property. An acceptable alternate configuration would be to construct the bulkhead in a straight alignment with a maximum encroachment of 12 to 18 inches from the existing shoreline. The bulkhead would connect to the return walls of the adjoining bulkheads. With either option, a detailed plan must be submitted to the Environmental Division prior to the preconstruction meeting.

The motion was approved by a 5-0 vote.

#### 5. W-15-99: David E. Cox - 313 Neck-O-Land Road

Mr. Gerry Lewis presented the case stating that Mr. David Cox had applied for a wetlands permit to install 190 linear feet of rip rap revetment at 313 Neck-O-Land. The property is further identified as parcel (1-49) found on James City County Real Estate Tax Map (47-3).

The property in question is along Powhatan Creek. An Environmental Division inspector visited the site along with other agency personnel on June 14, 1999. It is estimated that approximately 2800 square feet of tidal area (Type XV, Sand/Mud Flat) will be impacted by this application request.

The original application showed backfill and an apron extending one foot below mean low water. Mr. Cox was informed that extending the structure below mean low water would require a permit from the Virginia Marine Resource Commission (VMRC). He was also informed that the proposed application showed an excessive amount of impacts and that mitigation/compensation shall be required for impacts over 1000 square feet.

Mr. Cox revised his drawings and resubmitted. His new drawings show no backfill and show the removal of a few trees to straighten the shoreline and reduce the encroachment. The revised drawings still show an apron extending beyond the structure, instead of the buried toe. The plan still shows impacts in excess of 1000 square feet, with no mitigation/compensation plan proposed. Therefore, the staff denies this application as proposed.

Mr. Cox has been informed of this decision and would like to resubmit new proposals prior to the next Wetland Board meeting. We respectfully request tabling this application until the next meeting.

Mr. Lindsey commented that Mr. Cox understands the situation regarding the environmental impact associated with his application and wants to continue to work with staff to develop an acceptable proposal.

Mr. Lindsey opened the public hearing.

Mr. Cox stated that he feels he may have overestimated the impacts and that the only impacts would be to nonvegetated wetlands. He also is concerned that in order to reduce the impacts, he will have to remove more trees. However, he is willing to continue to revise his proposal to reduce the wetland impacts.

Mr. Lindsey closed the public hearing.

Mr. Hughes made a motion to defer case W-15-99 until the August 11, 1999 Wetlands Board meeting.

The motion was approved by a 5-0 vote.

6. W-16-99: John Crawford - 2984 Kitchum's Close

Mr. David Meador presented the case stating that Mr. John Crawford had applied for a wetlands permit to construct a 240 foot open-pile footbridge at 2984 Kitchum's Close in Governor's Land. The purpose of this footbridge is to provide recreational access to an adjacent island, owned by Governor's Land. Mr. Crawford and his family have an exclusive easement to the island. The property is further identified as parcel (10-2) found on James City County Tax Map No. (44-2) and is located along the James River.

An Environmental Division Inspector along with other agency personnel visited the site on June 23, 1999. It is estimated that approximately 960 square feet of Type XI, (Freshwater Mixed Community) will be potentially impacted by this project.

It is the staff's recommendation to that a wetlands permit be issued for this application with the following conditions:

1. A preconstruction meeting shall be held on-site with an Environmental Division Inspector prior to any construction activity. Any trees needing to be removed should be properly flagged and

approved by the Environmental Division prior to any disturbance.

2. The gap spacing between the boards shall be 5/8 inch in order to decrease the amount of shading to the wetland.
3. The construction debris will be removed promptly and disposed of properly.
4. All disturbed areas shall be stabilized with native vegetation.
5. After construction is completed, the Environmental Division shall be contacted so a final inspection can be conducted.
6. The permit shall expire on July 14, 2000.

Mr. Lindsey asked if this proposal was of the same construction as the other bridges permitted at Governor's Land.

Mr. Meador stated that the only difference was that this bridge was eight feet wide. He also stated that it was somewhat unclear as to whether the bridge actually crossed tidal wetlands due to the presence of an old road crossing and the vegetation present in the area. However, it was decided that it would probably be easier for the applicant to proceed with obtaining a permit rather than to delineate and determine the presence of tidal wetlands.

Mr. Lindsey opened the public hearing.

Mr. Chuck Roadley with the Williamsburg Environmental Group represented the applicant.

Mr. Lindsey asked Mr. Roadley if the construction was the same as others done in Governor's Land.

Mr. Roadley stated that it was, Mr. Crawford used the other bridges as a template for the design of his bridge.

Mr. Lindsey closed the public hearing.

Mr. Jones questioned why this application for an individual private bridge was coming before the Wetlands Board. Was it related to the wetlands mitigation policy or was it because Governor's Land was involved?

Mr. Lindsey replied that it was because of the ownership issue related to the island as the island is owned by Governor's Land.

Mr. Roadley confirmed that because the island was owned by Governor's Land, they needed to be a co-applicant and as such the permit could not be considered private because more than one owner was involved.

Mr. Jones made a motion to approve case W-16-99 with staff's recommendations.

The motion was approved by a 5-0 vote.

7. W-17-99: Frank Huckaby - 3 West Circle

Mr. David Meador presented the case stating that Mr. Frank Huckaby had reapplied for a wetlands permit to enhance an existing road crossing over tidal wetlands. The road crossing will serve as a driveway for a future residence. This was originally permitted as W-2-98 and it expired on February 11, 1999. The property is further identified as parcel (2-80-A) found on James City County Real Estate Tax Map (45-4).

The enhancement of the road crossing will include sheet piling and 9.6 cubic yards of fill to be placed along the toe of the slope in order to raise the elevation and increase the width of the road. The preparation of the building pad and lot will impact 0.1 acre of isolated wetlands. These isolated wetlands on the lot are above mean high water and therefore out of the Wetlands Board jurisdiction, but will need an exception granted by the Environmental Division to meet the requirements of the Chesapeake Bay Preservation ordinance.

An Environmental Division inspector has visited the site along with other agency personnel. It is estimated that approximately 300 square feet of tidal area (Type XI, Freshwater Mixed Community) will be impacted by the widening of the road crossing.

It is the staff's recommendation that a wetland permit be issued for this application with the following conditions:

1. Prior to any construction, a land disturbing permit with a siltation agreement will be required. Also, an exception must be granted by the Environmental Division to encroach into the Resource Protection Area.
2. A preconstruction meeting will be held on site with an Environmental Division Inspector prior to any construction activity.
3. The existing 24" corrugated metal drainage pipe that runs through the existing causeway will be replaced with a new 24" reinforced concrete pipe (RCP) or high density polyethylene double wall (smooth interior) pipe. Also, at least one more 24" culvert will be placed through the causeway to help with the tide exchange.
4. Disturbed upland areas will be stabilized with native grasses.
5. The length of the sheet piling will be determined at the preconstruction meeting.
6. The permit will expire on July 14, 2000.

Mr. Hughes asked if the application was the same as previously presented when it was approved by the Board.

Mr. Meador confirmed that it was the same.

Mr. Lindsey opened the public hearing.

Mr. Chuck Roadley with the Williamsburg Environmental Group represented the applicant and stated he would be glad to answer any questions regarding the case.

There were no questions for Mr. Roadley so Mr. Lindsey closed the public hearing.

Mr. Hughes made a motion to approve case W-17-99 with staff's recommendations.

The motion was approved by a 5-0 vote.

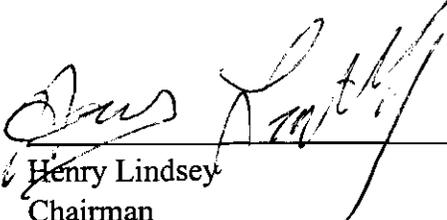
**E. BOARD CONSIDERATIONS - None**

**F. MATTERS OF SPECIAL PRIVILEGE**

Mr. Cook briefed the Board regarding the status of the Chesapeake Bay Preservation Ordinance civil penalties provision and the role the Wetlands Board might play in that process. Originally, the Ordinance provision was prepared with the Wetlands Board as the entity that would establish the civil penalty amounts. However, because of a legal consideration, it was determined that the Board of Supervisors was required to establish the amount of any civil penalty under the Ordinance. So, the Wetlands Board would have no role other than an advisory one in the civil penalty procedure for the Chesapeake Bay Ordinance.

**G. ADJOURNMENT**

The meeting was adjourned at 8:50 P.M.

  
Henry Lindsey  
Chairman

  
Darryl E. Cook  
Secretary