

**WETLANDS BOARD
MINUTES**

FEBRUARY 9, 2000 - 7:00PM

A. ROLL CALL **ABSENT**

Henry Lindsey
Larry Waltrip
John Hughes
David Gussman

OTHERS PRESENT

Darryl E. Cook, Secretary to the Board
Environmental Staff

NOTE: Mr. James Jones' term on the Wetlands Board expired on January 14, 2000. Due to a change in his work schedule Mr. Jones felt that it would be in the best interest of the Board not to re-appoint him.

B. ELECTION OF OFFICERS FOR YEAR 2000

Mr. Hughes moved that Henry Lindsey be re-appointed as Chairman.

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

Mr. Gussman moved that Darryl Cook be re-appointed as Secretary.

All motions on elections were approved by a 4-0 vote.

C. MINUTES

Approval of the July 14, 1999 and the August 11, 1999 minutes were approved as presented.

D. OLD BUSINESS - None

E. PUBLIC HEARINGS

1. W-01-00: John Crawford - 2984 Kitchum's Close

Mr. David Meador informed the Board that he did not have pictures available as the applicant had requested the case be deferred. Mr. Meador then presented the case stating that Riverworks, Inc. had applied for a wetlands permit to construct a 425 foot pier for John Crawford at 2984 Kitchum's Close in Governor's Land. The pier is proposed to be built on an adjacent island, owned by Governor's Land Foundation. 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 January 31, 2000. We have since received a request from Riverworks, Inc. to withdraw the Crawford application from this meeting, so the pier can be redesigned.

It is the staff's recommendation that this case be deferred until the redesign is submitted.

In response to a question from Mr. Hughes, Mr. Meador responded that the letter requesting the deferral indicated the plan would be re-submitted within 60 days.

Mr. Lindsey addressed members of the audience informing them that the Board was not going to vote on this case tonight, but would defer it. He then opened the public hearing and encouraged those who wished to speak on this issue to do so.

A. Carol Vitarelli, President of Governor's Land Foundation presented the Board with a letter addressed to Traycie West, VMRC, requesting denial of the permit. Ms. Vitarelli also requested the Board deny this permit. (This letter is part of and attached to these minutes.)

Mr. Hughes inquired if the Foundation had initiated any legal proceedings relating to this matter and if they had contacted Mr. Crawford to try and resolve issues.

Ms. Vitarelli responded that they had not done either, however as the case was advertised as a public hearing individual concerns needed to be expressed.

B. Mr. Robert Skelly, 3009 John Vaughan Road, stated he opposed the application.

C. Mr. Philip Duffy, 3220 Fowler's Lake Road and Board of Director for the James River Associates, stated he opposed the application. He further requested that the County Attorney address the legal aspects of this case.

D. Mr. H. Ross Ford, 1608 Harbor Road, stated he opposed the application. He felt water safety was a major concern and that approval of this permit would set a precedent for others to build piers.

- E. Mr. William Spaller, 1556 Harbor Road, stated he opposed the application.
- F. Mr. Allan Finger, 1700 Founder's Hill South, stated he opposed the application.
- G. Mr. Gerald Broock, 1205 Two Rivers Point, stated he opposed the application.
- H. Mr. Alfred D'Anca, 2996 Kitchum's Close, stated he opposed the application.
- I. Mr. Boyd McKelvain, 1600 Harbor Road, stated he opposed the application.
- J. Ms. Gelsey, 2801 Lawne's Creek Road, stated she opposed the application.
- K. Mr. Ed Shugrue, 3009 Kitchum's Close, stated he opposed the application. He then asked the Board why they were considering an application that Mr. Crawford had submitted for work on property that he did not own and did not have the owner's permission.

Mr. Lindsey responded that legal issues had surfaced after the application had been received. At this time the application is not considered to be complete, however, as the hearing had been advertised the Board wanted to receive comments from the public.

Mr. Cook stated that the James City County Attorney's office was in the process of researching the legal issues relating to this case.

Mr. H. Ross Ford provided the Board with documents indicating the ownership of said property and copies of the easements in question.

- L. Mr. John Berkenkamp, 3001 Travis Pond Road, stated he opposed the application.
- M. Mr. Maury Cain, 2937 E. Island Road, spoke in opposition of the permit. He stated the plan should have gone to the Governor's Land Architectural Review Board prior to being submitted to VMRC.
- N. Ms. Cindy Skelly, 3009 John Vaughan Road, stated she opposed the application.
- O. Ms. Mish Kara, 2505 Sanctuary Drive, stated she opposed the application.

Mr. Lindsey inquired if Mr. Crawford was in the audience. He was not present, nor was his agent.

Mr. Hughes inquired how long the permit could be deferred.

Mr. Cook responded that he would research that. (After consulting with the County Attorney's office, there is no time limit on how long a permit application can be deferred.)

Mr. Lindsey stated the public hearing would remain open as the case was still pending review. He further stated that Governor's Land Foundation would be notified when the case was brought back before the Board.

Mr. Meador assured the Board and the audience that he would require a letter of approval from the Governor's Land Foundation before resubmitting the case.

A general discussion took place between the Board and the audience. Topics discussed covered easements pertaining to this case and who had riparian rights on the property, the rationale supporting why the Board was considering the application, and the issue that Mr. Crawford had not followed the guidelines set by Governor's Land by first submitting this project to the Architect Review Board for their consideration. The Board assured the public that if Mr. Crawford attempted to construct this project without the proper permits, a Stop Work Order would be posted by James City County with the possibility of civil fines being imposed and an appearance in County Court. It was determined that if the County Attorney decided that Governor's Land Foundation owned riparian rights, then the Board would not review the application without their approval.

In response to further discussion, Carol Vitarelli, President of Governor's Land Foundation, informed the Board that she would poll the "Foundation" Board the next day and would submit, within 48 hours, a formal request addressed to VMRC and the Board to deny the application. She then thanked the Board for allowing the audience to express their concerns.

Mr. Gussman made a motion to defer the case.

The motion was approved by a 4-0 vote.

F. BOARD CONSIDERATIONS

Proposed policy for Wetland Permit Extensions

Mr. Cook addressed the Board stating that currently the procedure utilized for extending wetlands permit expiration dates requires a wetlands board meeting and the board acting upon the extension request. It has come to the attention of staff that the existing procedure has several negative aspects that the board may choose to remedy.

Those negatives include; board meetings being required when the only agenda item would be a permit extension request and failure of the board to act prior to the permit expiration date would cause the existing permit to expire. A permit expiration may trigger the requirement for the filing of a new permit application.

To resolve these issues Staff is recommending the following policy change:

Wetland permit extension requests shall be submitted to staff in writing by the permit holder prior to the current expiration date. Staff will review the request and authorize the extension of the permit subject to confirmation by the Wetlands Board at its next regularly held meeting. Staff believes this

policy action is necessary and authorized under section 22-12 of the James City County Wetlands Ordinance which states; "Upon proper application the board may extend the permit expiration date." Staff would consult with the Board's Chairman prior to granting any extensions.

Mr. Gussman suggested a deadline be given for submitting extension requests.

Mr. Hughes made a motion to adopt the revisions to policy for permit extensions and to modify them by adding the text that the Wetlands Board Chairman would be consulted on each request and a line item would be added to all permits issued stating that extension requests would need to be submitted no later than two weeks prior to the permit expiration date.

The motion was approved by a 4-0 vote.

1. W-25-98: Bush Neck Farm, Inc. - 1502 Bush Neck Road

Mr. Cook presented the case stating the Mr. David W. Brown, property owner, had requested an extension of the expiration date for this permit. Subsequent to the receipt of Mr. Brown's request, and following consultation with the Wetlands Board Chairman, the Environmental Division had authorized the extension of the permit expiration date to November 4, 2000. All of the permit conditions required within this permit shall apply to this permit extension.

The authorization of permit extensions by the Environmental Division is subject to review and confirmation by the Wetlands Board at its next meeting.

Mr. Hughes made a motion to approve extending the expiration date to November 4, 2000 on Case No. W-25-98.

The motion was approved by a 4-0 vote.

G. MATTERS OF SPECIAL PRIVILEGE

The Board unanimously adopted the 2000 Wetlands Board Meeting schedule, which is to be held on the 2nd Wednesday of each month at 7:00 p.m., provided there are cases to be considered.

A general discussion was held on open pile piers. It was determined that staff would research how inspections are conducted to verify the proper deck spacing on piers for building permits issued.

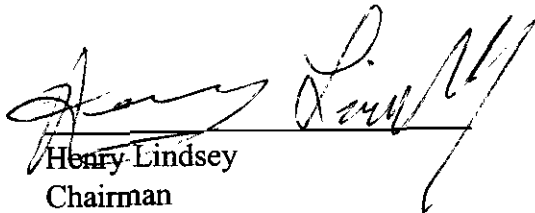
Mr. Gussman requested staff to see if the Board of Supervisors could adopt a policy governing piers in James City County. It was agreed that Traycie West, VMRC, would be the first contact on this issue for VMRC clarification.

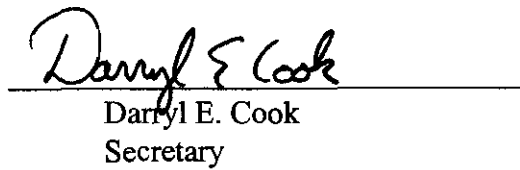
Mr. Cook informed the Board that the Board of Supervisors would appoint a new member to the Wetlands Board. He then asked the Board to give him their recommendations that he would provide to the Board of Supervisors for their consideration.

The Board agreed that they wanted to present a recommendation to the Board of Supervisors to present James Jones with a Resolution of Appreciation for the time he served on the Wetlands Board.

H. ADJOURNMENT

The meeting was adjourned at 8:35 P.M.


Henry Lindsey
Chairman


Darryl E. Cook
Secretary

GOVERNOR'S LAND FOUNDATION

February 8, 2000

Virginia Marine Resources Commission
2600 Washington Avenue
Newport News, VA 23607

Attn: Traycie L. West
Environmental Engineer

Re: VMRC Number 99-2360
John D. Crawford

Dear Ms. West:

We have reviewed the Application submitted to you by John Crawford to construct a 425' long by 8' wide private non-commercial open pile non-riparian pier with platform, finger piers and boathouse. We object to this Application as follows:

1. The "Island" shown on the drawing by River Works, Inc. is not owned by John Crawford. It is owned by Governor's Land Foundation. This island is designated as Major Open Space # 35 on the plat titled "Kitchum's Pond-Block C, the Governor's Land at Two Rivers," which is recorded in Plat Book 67, pages 20-22 in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City, Virginia.
2. The land adjacent to the swamp shown on the drawing by River Works, Inc. is not owned by John Crawford. It is owned by Governor's Land Foundation. It is designated as Major Open Space # 34 on the plat referenced in paragraph 1 above.
3. Major Open Space # 34 and # 35 are subject to a natural open space easement which was granted to the County of James City.
4. Major Open Space # 35 is designated as limited common area for the owner of Lot 2 (John Crawford). However, it is subject to all of the restrictions and provisions of the Declaration for Governor's Land at Two Rivers. Mr. Crawford's use of this area as limited common area is also inferior to the rights of James City County.
5. Any use of the limited common area by John Crawford is subject to approval by the Architectural Review Board for Governor's Land. Presently, Mr. Crawford has not

submitted his pier plan to the Architectural Review Board.

6. In that we have granted an easement to the County of James City, any use of Major Open Space # 34 and # 35 requires approval by the engineer for James City County and the Planning Commission.

We are enclosing for your reference a copy of the Supplementary Declaration for Governor's Land; the Deed of Gift indicating ownership by Governor's Land Foundation; and the Deed of Easement indicating the County's interest in the property.

For the foregoing reasons, we object to the permit requested by John Crawford.

Very truly yours,

GOVERNOR'S LAND FOUNDATION

Carol M. Vitarelli, President

MEMORANDUM

DATE: February 9, 2000
TO: The Wetlands Board
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Policy for Wetlands Permit Extensions

Currently the procedure utilized for extending wetlands permit expiration dates requires a Wetlands Board meeting and the Board acting upon the extension request. It has come to the attention of staff that the existing procedure has several negative aspects that the Board may choose to remedy.

Those negatives include; board meetings being required when the only agenda item would be a permit extension request and failure of the Board to act prior to the permit expiration date would cause the existing permit to expire. A permit expiration may trigger the requirement for the filing of a new permit application.

To resolve these issues, Staff recommended and the Wetlands Board approved at the February 9, 2000 Board meeting, the following policy change:

Wetlands permit extension requests shall be submitted to staff in writing by the permit holder no later than two weeks prior to the current expiration date. staff will then review the request and following consultation with the Wetlands Board Chairman, staff may authorize the extension of the permit. If staff authorizes an extension, it will be subject to confirmation by the full Wetlands Board at its next regularly held meeting. Staff believes this policy action is necessary and authorized under section 22-12 of the James City County Wetlands Ordinance which states; "Upon proper application the Board may extend the permit expiration date."

Each permit will contain a statement that permit extension requests will need to be in writing and submitted to the Environmental Division no later than two weeks prior to the permit expiration date.