

**MINUTES**  
**JAMES CITY COUNTY CHESAPEAKE BAY BOARD**  
**REGULAR MEETING**  
**County Government Center, Building F**  
**101 Mounts Bay Road, Williamsburg, Virginia 23185**  
**November 13, 2019**  
**5:00 PM**

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**A. CALL TO ORDER**

The Chesapeake Bay Board meeting for November 13, 2019, was called to order.

The responsibility of this Board is to carry out locally the Commonwealth policy to protect against and minimize pollution and deposition of sediment in wetlands, streams, and lakes in James City County, which are tributaries of the Chesapeake Bay.

**B. ROLL CALL**

**Board Members Present:**

David Gussman, Chair  
William Apperson, Vice Chair  
Charles Roadley  
Larry Waltrip  
Robert Lukens

**Board Members Absent:**

John Hughes

**Other Staff Present:**

Toni Small, Director, Stormwater and Resource Protection  
Liz Parman, Assistant County Attorney  
Michael Woolson, Senior Watershed Planner, Stormwater and Resource Protection  
Trevor Long, Watershed Planner, Stormwater and Resource Protection  
Janice Petty, Stormwater Assistant, Stormwater and Resource Protection

**C. MINUTES**

1. Minutes from October 9, 2019, Regular Meeting

A motion to Approve the minutes was made by Mr. Gussman.

The minutes were approved on a voice vote.

**D. PUBLIC HEARINGS**

1. Case No. CBPA 19-0117 : 7851 Pocahontas Trail

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Mr. Anthony Loubier, Vanasse Hangen Brustlin, Inc. (VHB), on behalf of Seaworld Parks & Entertainment, LLC for encroachments into the Resource Protection Area (RPA) buffer for the expansion of the Germany area on property located at 7851 Pocahontas Trail, within the James River watershed. The property is further identified as James City County Tax Map

Parcel No. 5140100009. The presentation described the current and proposed site conditions and also the proposed mitigation. If the Board approved the request, staff asked that the attached conditions be incorporated into the approval. The Board deliberated on the pros and cons of this application and questioned staff on several points.

Mr. Gussman inquired if the entire drainage for the project goes to the Rhine River.

Mr. Long replied yes.

Mr. Lukens inquired about the maintenance responsibilities of the Rhine River.

Mr. Gussman opened the Public Hearing:

**A.** Ms. Suzy Cheely, Senior Leader of Design & Engineering at Busch Gardens and Water Country, outlined the project to the Board. She explained the dam's shared maintenance responsibility with the brewery.

Mr. Roadley inquired about stabilization and sedimentation during construction.

**A.** Ms. Cheely explained the erosion control measures which will be implemented during construction.

**B.** Mr. Anthony Loubier, of VHB, explained the wetland permitting process.

Mr. Gussman closed the Public Hearing, as no one else wished to speak.

Mr. Apperson made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 19-0117 at 7851 Pocahontas Trail.

A motion to Approve with Conditions was made by Mr. Apperson.

The motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Gussman, Apperson, Lukens, Roadley, Waltrip

Absent: Hughes

2. Case No. CBPA 19-0095 : 141 Macaulay Road

Mr. Trevor Long, Watershed Planner, presented the exception request deferred from the October 9, 2019 meeting, submitted by Mr. Wayne Savage, Bay Design Group, on behalf of Mr. Gerard & Mrs. Carrie Morelli for encroachments into the RPA buffer for the construction of a single-family dwelling, patio, terrace, and pool on property located at 141 Macaulay Road, within the Kingsmill subdivision, and the College Creek watershed. The property is further identified as James City County Tax Map Parcel No. 5030200136. The presentation described the current and proposed site conditions and the proposed mitigation. If the Board approved the request, staff asked that the attached conditions be incorporated into the approval. The Board deliberated on the pros and cons of this application and questioned staff on several points.

Mr. Gussman inquired how the infiltration trench would work.

Mr. Gussman opened the Public Hearing:

**A.** Mr. Wayne Savage, Bay Design Group, outlined the project to the Board. He explained

the infiltration trench design.

Mr. Roadley inquired if there was an underdrain.

**A.** Mr. Savage explained that the current design did not have one.

Mr. Lukens inquired about where the driveway trench drain discharged.

**A.** Mr. Savage responded that this drainage was discharged down the slope and not captured in the infiltration trench.

Mr. Gussman closed the Public Hearing as no one wished to speak.

Mr. Gussman inquired how staff would guarantee the infiltration trench would work.

Mr. Roadley suggested an underdrain be designed and installed to prevent failure.

Mr. Gussman requested that the trench drain detail be revised to include an underdrain.

Mr. Gussman reopened the Public Hearing as another person wished to speak.

**B.** Ms. Debbie Phelps, 144 Macaulay Road, expressed opposition to the pool.

Mr. Gussman closed the Public Hearing as no one additionally wished to speak.

Mr. Roadley summarized the backyard pool issues.

Mr. Roadley made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 19-0095 at 141 Macaulay Road with a provision for an underground drain or infiltration trench.

A motion to Approve with Conditions was made by Mr. Roadley.

The motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Gussman, Apperson, Lukens, Roadley, Waltrip

Absent: Hughes

3. Case No. CBPA 19-0116 : 167 Riverview Plantation Drive

Mr. Michael Woolson, Senior Watershed Planner, presented the exception request submitted by Mr. Mathew Roth, Roth Environmental, on behalf of Mr. David Watson, for a Chesapeake Bay Exception for encroachments into the RPA buffer for the construction of a sunroom and deck on property located at 167 Riverview Plantation within the Riverview Plantation subdivision and the Skimino Creek watershed. The property is further identified as James City County Tax Map Parcel No. 1730200003. The presentation described the current and proposed site conditions and the proposed mitigation. If the Board approved the request, staff asked that the attached conditions be incorporated into the approval. The Board deliberated on the pros and cons of this application and questioned staff on several points.

Mr. Lukens inquired about the installation date of the shoreline revetment.

Mr. Woolson responded that he was unsure on the installation date.

Mr. Gussman opened the Public Hearing:

A. Mr. Mathew Roth, Roth Environmental, outlined the project to the Board. The shoreline work was started in 2002.

Mr. Gussman closed the Public Hearing, as no one else wished to speak.

Mr. Roadley made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 19 -0116 at 167 Riverview Plantation Drive.

A motion to Approve with Conditions was made by Mr. Roadley.

The motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Gussman, Apperson, Lukens, Roadley, Waltrip

Absent: Hughes

4. Case No. CBPA 19-0121 : 4053 South Riverside Drive

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Mr. Robert Kaufman for encroachments into the RPA buffer for the construction of an addition to a single-family dwelling on property located at 4053 South Riverside Drive, within the Chickahominy Haven Subdivision and the Yarmouth Creek watershed. The property is further identified as James City County Tax Map Parcel No. 1910500009. The presentation described the current, proposed site conditions and the proposed mitigation. If the Board approved the request, staff asked that the attached conditions be incorporated into the approval. The Board deliberated on the pros and cons of this application and questioned staff on several points.

Mr. Gussman opened the Public Hearing:

A. Mr. Robert Kaufman outlined the project to the Board.

Mr. Gussman inquired about the access to the proposed addition.

A. Mr. Kaufman responded that the access was from the interior only.

Mr. Gussman closed the Public Hearing, as no one else wished to speak.

Mr. Apperson made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 19-0121 at 4053 South Riverside Drive.

A motion to Approve with Conditions was made by Mr. Apperson.

The motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Gussman, Apperson, Lukens, Roadley, Waltrip

Absent: Hughes

5. Case No. CBPA 19-0120 : 9212 Morning Dew Court

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Mr. Doug Harbin, Wayne Harbin Builders, Inc. on behalf of LHIW-3, LLC for encroachments into the RPA buffer for the construction of a single-family dwelling on property located at 9212

Morning Dew Court, within the Retreat Subdivision and the Diascund Creek watershed. The property is further identified as James City County Tax Map Parcel No. 1010300066. The presentation described the current and proposed site conditions and the proposed mitigation. If the Board approved the request, staff asked that the attached conditions be incorporated into the approval. The Board deliberated on the pros and cons of this application and questioned staff on several points.

Mr. Gussman inquired about the subdivision approval process.

Mr. Woolson explained the grandfathering provisions that were enacted when Chesapeake Bay Ordinance was revised in 2004.

Mr. Roadley inquired about the clearing of the primary drainfield.

Mr. Long responded that the primary would be cleared and the reserve would not be cleared.

Mr. Gussman opened the Public Hearing.

A. Mr. Doug Harbin, Wayne Harbin Builders, Inc., outlined the project to the Board.

Mr. Apperson asked if the stumps lying within the drainfield were going to be removed.

A. Mr. Harbin replied positively.

Mr. Roadley inquired if the steep slopes would eventually threaten the house.

A. Mr. Harbin responded that the steep slopes would remain vegetated.

Mr. Waltrip expressed concern about the other lots on the cul-de-sac having the same issues.

Mr. Gussman closed the Public Hearing, as no one else wished to speak.

Mr. Waltrip made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 19-0120 at 9212 Morning Dew Court.

A motion to Approve with Conditions was made by Mr. Waltrip.

The motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Gussman, Apperson, Lukens, Roadley, Waltrip

Absent: Hughes

6. Case No. CBPA 19-0124 : 120 Jolly Pond Road

Mr. Michael Woolson, Senior Watershed Planner, presented the exception request submitted by Mr. Matthew Hipple for encroachments into the RPA buffer for the construction of a farm pond on property located at 120 Jolly Pond Road, within the Gordon Creek watershed. The property is further identified as James City County Tax Map Parcel No. 3110100007C. The presentation described the current site conditions. If the Board approved the request, staff asked that the attached conditions be incorporated into the approval. The Board deliberated on the pros and cons of this application and questioned staff on several points.

Mr. Gussman inquired about the apparent algae on the pond surface.

Mr. Woolson responded that the adjacent property has livestock on the property. Staff is working with the adjacent property owner, Mr. Mark Hipple, to get a Soil and Water Conservation agricultural management plan for the property.

Mr. Lukens inquired about any flooding of the adjacent property.

Mr. Woolson responded that it did flood prior to the standpipe being lowered.

Mr. Lukens inquired about the driveway being overtopped.

Mr. Gussman inquired about the permit process for the installation of a dam.

Mr. Woolson responded to the driveway and dam issues.

Mr. Gussman opened the Public Hearing:

A. Mr. Matthew Hipple outlined the project to the Board.

Mr. Apperson stated that the standpipe helped prevent the driveway from overtopping and washing out.

Mr. Waltrip commented on the driveway and flooding.

Mr. Gussman closed the Public Hearing, as no one else wished to speak.

Mr. Matthew Hipple requested deferral of the case.

Mr. Lukens made a motion to defer Chesapeake Bay Board Case No. CBPA 19-0124 at 120 Jolly Pond Road until the December Chesapeake Bay Board meeting.

A motion to defer was made by Mr. Lukens.

The motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Gussman, Apperson, Lukens, Roadley, Waltrip

Absent: Hughes

7. Case No. CBPA 19-0115 : 11 Gray Gables Drive

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Mr. Lance Frost, Country Village Mobile Home Park, for encroachments into the RPA buffer for the replacement of a mobile home and a deck on property located at 11 Gray Gables, within the Skiffes Creek watershed. The property is further identified as James City County Tax Map Parcel No. 5920100001. The presentation described the current and proposed site conditions and the proposed mitigation. If the Board approved the request, staff asked that the attached conditions be incorporated into the approval. The Board deliberated on the pros and cons of this application and questioned staff on several points.

Mr. Gussman opened the Public Hearing.

A. Mr. Lance Frost, Country Village Mobile Home Park, outlined the project to the Board.

Mr. Gussman closed the Public Hearing, as no one else wished to speak.

Mr. Waltrip made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 19-0115 at 11 Gray Gables.

A motion to Approve with Conditions was made by Mr. Waltrip.

The motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Gussman, Apperson, Lukens, Roadley, Waltrip

Absent: Hughes

8. Case No. CBPA 19-0118 : 5700 Williamsburg Landing Drive

Mr. Michael Woolson, Senior Watershed Planner, presented the exception request submitted by Mr. Randy Retan, Williamsburg Landing, Inc. for encroachments into the RPA buffer for the construction of buildings and installation of temporary scaffolding to construct buildings on property located at 5700 Williamsburg Landing Drive, within the College Creek watershed. The property is further identified as James City County Tax Map Parcel No. 4820100002. The presentation described the current and proposed site conditions and the proposed mitigation. If the Board approved the request, staff asked that the attached conditions be incorporated into the approval. The Board deliberated on the pros and cons of this application and questioned staff on several points.

Mr. Gussman opened the Public Hearing.

A. Mr. Randy Retan, Williamsburg Landing, Inc., outlined the project to the Board.

B. Mr. Mike Powell, Project Manager at Henderson, Inc., explained the proposed changes.

Mr. Gussman closed the Public Hearing, as no one else wished to speak.

Mr. Lukens made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 19-0118 at 5700 Williamsburg Landing Drive.

A motion to Approve with Conditions was made by Mr. Lukens.

The motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Gussman, Apperson, Lukens, Roadley, Waltrip

Absent: Hughes

9. Case No. CBPA 19-0126 : 3000 John Deere Road

Mr. Michael Woolson, Senior Watershed Planner, presented the exception request submitted by Mr. Archer Marston, AES Consulting Engineers, for encroachments into the RPA buffer for the planned expansion of buildings, parking, and stormwater management infrastructure on property located at 3000 John Deere Road, within the Ware Creek watershed. The property is further identified as James City County Tax Map Parcel No. 1210100045. The presentation described the current and proposed site conditions and the proposed mitigation. If the Board approved the request, staff asked that the attached conditions be incorporated into the approval. The Board deliberated on the pros and cons of this application and questioned staff on several points.

Mr. Gussman opened the Public Hearing.

A. Mr. Archer Marston, AES Consulting Engineers, outlined the project to the Board.

B. Mr. Bob Kerr, Wetland Studies and Solutions, Inc., Environmental Consultant, further outlined the project impacts.

Mr. Roadley inquired about the purpose and need for the project and avoidance and minimization measures undertaken, as well as alternative analysis as to other areas of the County that might suit the intended purpose.

A. Mr. Marston explained the purpose and need of the project, including alternative site analysis and the avoidance and minimization of proposed impacts.

Mr. Gussman closed the Public Hearing, as no one else wished to speak.

Mr. Roadley made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 19-0126 at 3000 John Deere Road.

A motion to Approve with Conditions was made by Mr. Roadley.

The motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Gussman, Apperson, Lukens, Roadley, Waltrip

Absent: Hughes

## **E. BOARD CONSIDERATIONS**

### 1. 2020 Calendar

2020 Calendar was approved on a voice vote.

### 2. Election of Officers for 2020

Mr. Apperson nominated Mr. Gussman to serve as Chair.

The nomination was approved: 5-0

Ayes: Gussman, Apperson, Waltrip, Roadley, Lukens

Nays: None

Absent: Hughes

Mr. Gussman nominated Mr. Apperson to serve as Vice Chair.

The nomination was approved: 5-0

Ayes: Gussman, Apperson, Waltrip, Roadley, Lukens

Nays: None

Absent: Hughes

Mr. Gussman nominated Mr. Woolson to serve as Secretary.

The nomination was approved: 5-0

Ayes: Gussman, Apperson, Waltrip, Roadley, Lukens

Nays: None

Absent: Hughes

## **F. MATTERS OF SPECIAL PRIVILEGE**

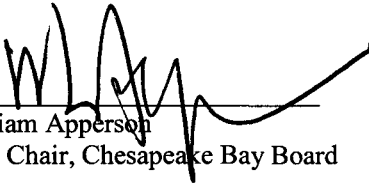


None

**G. ADJOURNMENT**

A motion to Adjourn was made by Mr. Gussman and approved on a voice vote.

The meeting adjourned at 7:33 p.m.

  
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William Apperson  
Vice Chair, Chesapeake Bay Board

  
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Michael Woolson  
Secretary to the Board