

**MINUTES**  
**JAMES CITY COUNTY CHESAPEAKE BAY BOARD**  
**REGULAR MEETING**  
**County Government Center, Building F**  
**101 Mounts Bay Road, Williamsburg, Virginia 23188**  
**January 12, 2022**  
**5:00 PM**

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**A. CALL TO ORDER**

The Chesapeake Bay Board meeting for January 12, 2022, 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, Chairman  
Halle Dunn  
William Apperson  
Charles Roadley  
Larry Waltrip

**Board Members Absent:**

None

**Other Staff Present:**

Toni Small, Director, Stormwater and Resource Protection  
Liz Parman, Assistant County Attorney  
Michael Woolson, Resource Protection Section Chief, Stormwater and Resource Protection  
Robin Benedict, Watershed Planner, Stormwater and Resource Protection

**C. MINUTES**

1. Minutes from the November 10, 2021 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. CBPA 21-0164 : 3041 Heritage Landing Road

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Mr. Richard Schaufler, for encroachments into the Resource Protection Area (RPA) buffer for the replacement and expansion of an existing retaining wall located at 3041 Heritage Landing Road, within the Heritage Landing Subdivision and the James River watershed. The property is further identified as James City County Tax Map Parcel Number 4510500015. The presentation described the current and proposed site conditions. If the Board approved the

request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated the pros and cons of this application.

Mr. Gussman opened the Public Hearing.

A. Mr. Richard Schaufler, outlined the project for the Board.

B. Mr. Michael Halladay, 3037 Heritage Landing Road, offered support of this application.

Mr. Gussman closed the Public Hearing.

Mr. Dunn made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA- 21-0164 at 3041 Heritage Landing Road.

A motion to Approve with Conditions was made by Mr. Dunn, the motion result was:

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

AYES: Gussman, Dunn, Apperson, Roadley, Waltrip

NAYS: None

ABSENT: None

2. CBPA 21-0178 : 5508 Swan Road

Mr. Michael Woolson, Resource Protection Section Chief, presented the exception request submitted by Mr. Scott Marlow, Marlow's We Care Company, Inc. on behalf of Mr. Jason and Mrs. Aida Hoyle, for encroachments into the RPA buffer for the installation of a retaining wall located at 5508 Swan Road, within the Mallard Hill Subdivision and the Powhatan Creek watershed. The property is further identified as James City County Tax Map Parcel Number 3140600011. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated the pros and cons of this application.

Mr. Gussman opened the Public Hearing.

A. Mr. Scott Marlowe, Marlowe's We Care Company, Inc., outlined the project for the Board.

Mr. Gussman closed the Public Hearing.

Mr. Apperson made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA-21-0178 at 5508 Swan Road.

A motion to Approve with Conditions was made by Mr. Apperson, the motion result was:

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

AYES: Gussman, Dunn, Apperson, Roadley, Waltrip

NAYS: None

ABSENT: None

3. CBPA 21-0194 : 4812 Bristol Circle

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Mr.

Kenneth Jefferson, for encroachments into the RPA buffer for the construction of a playhouse located at 4812 Bristol Circle, within the Westray Downs Subdivision and the Mill Creek watershed. The property is further identified as James City County Tax Map Parcel Number 4721700023. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated the pros and cons of this application.

Mr. Gussman opened the Public Hearing.

A. Mr. Kenneth Jefferson outlined the project for the Board.

Mr. Gussman closed the Public Hearing.

Mr. Apperson made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA-21-0194 at 1592 4812 Bristol Circle.

A motion to Approve with Conditions was made by Mr. Apperson, the motion result was:

AYES: 4 NAYS: 1 ABSTAIN: 0 ABSENT: 0

AYES: Gussman, Apperson, Roadley, Waltrip

NAYS: Dunn

ABSENT: None

4. CBPA-21-0130 : 115 Heathery

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Mr. Chase Grogg, LandTech Resources, Inc. on behalf of Elite E and E Investments, LLC, for encroachments into the RPA buffer for the construction of a single-family dwelling located at 115 Heathery, within the Ford's Colony Subdivision and the Powhatan Creek watershed. The property is further identified as James City County Tax Map Parcel Number 3810400146. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated the pros and cons of this application.

Mr. Gussman inquired of the location of the wetlands and the distance of the wetlands line from the proposed edge of the house.

Ms. Benedict deferred an answer to the applicant.

Mr. Gussman inquired of the percentage of the house in the RPA.

Ms. Benedict replied 100%.

Mr. Waltrip inquired of the elevation of the house versus the wetlands on the floodplain.

Ms. Benedict deferred an answer to the applicant.

Mr. Woolson explained the wetlands floodplain issue that Mr. Waltrip raised would be addressed at Building Permits stage, which includes the finished floor elevation being 2 feet or greater than the floodplain elevation on that lot. The house will be built on a crawlspace with flood vents installed to allow any future floodwaters to go in and out without damaging the structural foundation and integrity of the home.

Mr. Gussman opened the Public Hearing.

A. Mr. Chase Grogg, LandTech Resources, Inc., outlined the project for the Board. The house is about 5 feet off the right edge of the wetlands. He further explained the house elevation verses the regulations.

Mr. Gussman closed the Public Hearing.

Discussion ensued.

Mr. Dunn made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA-21-0130 at 115 Heathery.

A motion to Approve with Conditions was made by Mr. Dunn, the motion result was:

AYES: 4 NAYS: 1 ABSTAIN: 0 ABSENT: 0

AYES: Dunn, Apperson, Roadley, Waltrip

NAYS: Gussman

ABSENT: None

5. CBPA 21-0185 : 215 St. Cuthbert

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Mr. Chase Grogg, LandTech Resources, Inc. on behalf of Mr. Daniel and Mrs. Jo Anna Wilson, for encroachments into the RPA buffer for the construction of a single-family dwelling with attached deck and patio, located at 215 St. Cuthbert, within the Ford's Colony Subdivision and the Powhatan Creek watershed. The property is further identified as James City County Tax Map Parcel Number 3721000051. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated the pros and cons of this application.

Mr. Gussman opened the Public Hearing.

A. Mr. Chase Grogg, LandTech Resources, Inc., outlined the project for the Board.

Mr. Gussman inquired of the pond being retention or a natural pond.

Mr. Woolson confirmed that the pond is a Best Management Practices (BMP) pond.

Mr. Gussman inquired if down spouts were to be buried.

Discussion ensued concerning down spouts, ground gutters, piping, and gravel for the reduction of uncontrolled runoff and erosion down the side to protect the side swales.

B. Mr. Daniel and Mrs. Jo Anna Wilson, Wharton, VA, owners, were available for questions from the Board.

Mr. Gussman closed the Public Hearing.

Mr. Waltrip made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA-21-0185 at 215 St. Cuthbert.

A motion to Approve with Conditions was made by Mr. Waltrip, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
AYES: Gussman, Dunn, Apperson, Roadley, Waltrip  
NAYS: None  
ABSENT: None

**E. BOARD CONSIDERATIONS**

1. CBPA 20-0153 : 164 West Landing

Ms. Robin Benedict, Watershed Planner, presented the extension request submitted by Ms. Carrie Morelli for a one-year extension of the exception request originally granted on February 10, 2021. The exception request was for construction of a pool and pool house located at 164 West Landing in The Landing Subdivision and College Creek watershed. Staff concurred with this request and all other conditions of the approving resolution noting they would still apply with a new expiration date of January 12, 2023.

Mr. Roadley made a motion to Adopt the resolution for Extension for Chesapeake Bay Board Case No. CBE-20- 0153 at 164 West Landing.

A motion to Approve with Conditions was made by Mr. Roadley. The motion result was:  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
AYES: Gussman, Dunn, Apperson, Roadley, Waltrip  
NAYS: None  
ABSENT: None

2. CBE-17-048 : 7515 Oak Cove Road

Mr. Michael Woolson, Senior Watershed Planner, presented the fourth extension request submitted by Ms. Jennifer Privette, for a fourth extension of the exception request originally granted on March 8, 2017. The exception request was for construction of room addition associated with an existing single-family dwelling located at 7515 Oak Cove Road in the Yarmouth Creek watershed. Staff concurred with this request and all other conditions of the approving resolution would still apply with a new expiration date of January 12, 2023.

Mr. Dunn made a motion to Adopt the resolution for Extension for Chesapeake Bay Board Case No. CBE -17 -048 at 7515 Oak Cove Road.

A motion to Approve with Conditions was made by Mr. Dunn. The motion result was:  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
AYES: Gussman, Dunn, Apperson, Roadley, Waltrip  
NAYS: None  
ABSENT: None

3. Appeal of Notice of Violation, 5032 River Drive

Ms. Liz Parman, Assistant County Attorney, presented the two appeals of Notice of Violation of the Chesapeake Bay Ordinance at 5032 River Drive. Previous granted deferral to Mr. Danny Patterson on two occasions. Mr. R. A. Coleman, Inc., contractor, also appealed the Notice of Violation. Both parties are present today on the dual appeals.

**A.** Mr. Greg Bean, Esquire, Gordon Rees Scully Mansukhani, LLP, outlined the project for the Board.

Ms. Parman requested the Board leave resolutions as presented, as she foresees litigation on this issue and she has drafted resolution to best serve James City County's position.

Mr. Dunn made a motion to Affirm the two Chesapeake Bay Violations issued to Mr. R. A. Coleman, Inc. and to Mr. Danny Patterson at 5032 River Drive pursuant to the Chesapeake Bay Ordinance.

A motion to Affirm the two Chesapeake Bay Violations issued to Mr. R. A. Coleman, Inc. and to Mr. Danny Patterson, pursuant to the Chesapeake Bay Ordinance was made by Mr. Dunn, the motion result was:

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

AYES: Gussman, Dunn, Apperson, Roadley, Waltrip

NAYS: None

ABSENT: None

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

### **1. Colonial Soil and Water Conservation District - 2021 Update**

Presentation Presentation by Mr. Douglas Hall, Colonial Soil and Water Conservation District.

Highlights included:

Williamsburg Community Growers Partnership,

Virginia Conservation Assistance Program, (VCAP),

Turf Love, Ms. Robyn Woolsey has 298 certified nutrient management plans for privately owned properties and 34 James City County (JCC) owned properties with support from JCC/Williamsburg Master Gardeners, Ms. Judy McCormack, Mr. Dave Kleppinger, and Ms. Wendy Hamrick, and in addition

Shoreline Evaluation Program, shoreline assessment from District Staff and Master Gardener volunteers, covering 152 miles of shoreline. Training from Virginia Institute of Marine Science (VIMS), JCC Stormwater & Resource Protection staff and Northern Neck Master Gardener leaders.

## **G. ADJOURNMENT**

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

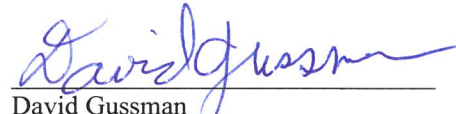
The meeting adjourned at 6:52 p.m.

Institute of Marine Science (VIMS), JCC Stormwater & Resource Protect staff and Northern Neck Master Gardener leaders.

**G. ADJOURNMENT**

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

The meeting adjourned at 6:52 p.m.

  
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David Gussman  
Chair, Chesapeake Bay Board

  
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Trevor Long  
Secretary to the Board