

**A G E N D A**  
**JAMES CITY COUNTY WETLANDS BOARD**  
**REGULAR MEETING**  
**County Government Center, Building F**  
**101 Mounts Bay Road, Williamsburg, Virginia 23185**  
**July 8, 2020**  
**5:00 PM**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MINUTES**

1. Minutes from June 10, 2020, Regular Meeting

**D. PUBLIC HEARINGS**

1. WJPA 19-0021 / VMRC 19-0516 : 2711 Jolly Pond Road

**E. BOARD CONSIDERATIONS**

**F. MATTERS OF SPECIAL PRIVILEGE**

**G. ADJOURNMENT**

**ITEM SUMMARY**

DATE: 7/8/2020  
TO: Wetlands Board  
FROM: Michael Woolson, Wetlands Board Secretary  
SUBJECT: Minutes from June 10, 2020, Regular Meeting

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**ATTACHMENTS:**

	Description	Type
☐	Minutes	Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Wetlands Group	Woolson, Michael	Approved	7/2/2020 - 4:53 PM

**MINUTES**  
**JAMES CITY COUNTY WETLANDS BOARD**  
**REGULAR MEETING**  
**County Government Center, Building F**  
**101 Mounts Bay Board, Williamsburg, Virginia 223185**  
**June 10, 2020**  
**5:00 PM**

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**A. CALL TO ORDER**

The Wetlands Board meeting for June 10, 2020, was called to order.

The responsibility of this Board is to carry out locally the Commonwealth policy to preserve the wetlands and to accommodate economic activity so as to prevent its despoliation.

**B. ROLL CALL**

**Board Members Present:**

William Apperson, Chair  
Halle Dunn, Vice Chair  
David Gussman  
Larry Waltrip

**Board Members Absent:**

Charles Roadley

**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 May 13, 2020, Regular Meeting  
A motion to Approve the minutes was made by Mr. Apperson. The minutes were approved on a voice vote.

**D. PUBLIC HEARINGS**

1. Case No. WJPA 20-00014/VMRC 20-0643 : 3181 Derby Lane

Mr. Trevor Long, Watershed Planner, presented the permit request submitted by Mr. Glenn Horner, who has applied for a wetlands permit for the installation of a bulkhead on the property located at 3181 Derby Lane, within the Drummonds Field subdivision and the James River watershed. The property is further identified as James City County Parcel No. 4540300008. The presentation described the current site conditions, proposed construction, and proposed mitigation. Staff recommended approval of the permit with conditions.

The Board deliberated the pros and cons of this permit.

Mr. Gussman inquired when the new guidelines for vegetated shorelines would start.

Mr. Trevor Long replied, July 1, 2020.

Mr. Gussman inquired if this case had come before the Board after July 1, 2020, as presented, it could not be approved.

Mr. Long replied that a living shoreline would have to be discussed if it was appropriate in this situation.

Mr. Gussman replied that from the pictures it appears that a living shoreline would work.

Mr. Woolson further explained that until the Commonwealth of Virginia clarifies what the new law means, it would be up to the Board's discretion as to whether or not the proposed project was appropriate. Applications submitted prior to July 1, 2020, would follow under the old guidelines.

Mr. Apperson opened the Public Hearing.

A. Mr. Michael Segala, 3193 Derby Lane, inquired when the work was to start. It appears work started prior to the permit being issued.

Mr. Woolson replied that he and Mr. Long met with Mr. Horner approximately one month ago and saw the patio being undermined and gave a verbal approval for work in front of the patio.

A. Mr. Segala replied that as of last Saturday, 200 feet of the bulkhead was installed.

Mr. Apperson closed the Public Hearing as there were no additional speakers.

Mr. Gussman stated that starting work before a permit is issued could cause a violation of the statute and the Board could seek legal remedies.

Mr. Gussman made a motion to Adopt the Resolution to grant the permit for Wetlands Board Case No. WJPA 20-0014/VMRC 20-0643 at 3181 Derby Lane.

A motion to Approve w/Conditions was made by Mr. Gussman, the motion result was:  
AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1  
Ayes: Apperson, Dunn, Gussman, Roadley  
Absent: Waltrip

**E. BOARD CONSIDERATIONS**

None

**F. MATTERS OF SPECIAL PRIVILEGE**

1. Resolution of Appreciation presentation to John Hughes

**G. ADJOURNMENT**

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

The meeting adjourned at 5:20 p.m.

**ITEM SUMMARY**

DATE: 7/8/2020  
TO: Wetlands Board  
FROM: Michael Woolson, Senior Watershed Planner  
SUBJECT: WJPA 19-0021 / VMRC 19-0516 : 2711 Jolly Pond Road

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Ms. Karla Havens of Mid-Atlantic Resource Consulting, on behalf of David and Tonya Pegram, has applied for a wetlands permit to install an open-pile pier and boathouse at 2711 Jolly Pond Road, JCC Parcel 3520100015C.

**ATTACHMENTS:**

	Description	Type
☐	Staff Report	Staff Report
☐	Resolution	Resolution
☐	Public Advertisement	Backup Material
☐	APO Letter	Backup Material
☐	APO Mailing List	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Wetlands Group	Woolson, Michael	Approved	7/2/2020 - 4:41 PM

**WETLAND BOARD CASE No. WJPA 19-0021/VMRC 19-0516. 2711 Jolly Pond Road  
Staff Report for the July 8, 2020, Wetland Board Public Hearing**

*This staff report is prepared by James City County Stormwater and Resource Protection to provide information to the Wetland Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.*

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**EXISTING SITE DATA AND INFORMATION**

Applicants: Mr. David and Mrs. Tonya Pegram

Agent: Ms. Karla Havens, Mid-Atlantic Resource Consulting

Location: 2711 Jolly Pond Road

Parcel: Part A, Mr. Benjamin P. and Mrs. Heidi Lee Hogge

Parcel Identification Number: 3520100015C

Watershed: Gordon Creek (JL29)

Floodplain: Zone A - The special flood hazard area subject to the 1% annual chance flood. No base flood elevation determined

Proposed Activity: Construction of a pier

Wetland Impacts: 120 feet of potential wetland impacts

Staff Contact: Michael D. Woolson, Senior Watershed Planner Phone: 253-6823

**PROJECT DISCUSSION**

Ms. Karla Havens, Mid-Atlantic Resource Consulting, has applied for a wetlands permit on behalf of Mr. and Mrs. David and Tonya Pegram to construct a pier on property located at 2711 Jolly Pond Road within the Gordon Creek watershed. The property is further identified as James City County Parcel No. 3520100015C.

The applicants have proposed the construction of a 175-foot pier that will traverse approximately 120 feet of vegetated marsh lands. The proposed pier decking will be no less than four feet above the wetland substrate. The applicants have also proposed to seed and mulch any denuded or sparsely vegetated areas that result from pier construction.

The scope of this work occurs nearly entirely within vegetated wetlands. Therefore, an application for a permit was submitted through the Virginia Marine Resources Commission and processed by the local Wetlands Board. This Board has requested that piers that are constructed over an extensive amount of vegetated wetlands come before it for a Wetlands Permit.

**MITIGATION DISCUSSION**

As published in the *Virginia Register* on July 11, 2005, the revised Wetland Mitigation Compensation Policy and Supplemental Guidelines, Regulation 4VAC 20-390-10 et seq., Virginia, as a Chesapeake Bay Program partner, is committed to “achieve a no-net loss of existing wetlands acreage and function in the signatories’ regulatory programs.” In order for a proposed project to be authorized to impact wetlands and compensate for the wetland loss in some prescribed manner, the following three criteria must be met:

1. All reasonable mitigative efforts, including alternative siting, which would eliminate or minimize wetland loss or disturbance must be incorporated in the proposal; and
2. The proposal must clearly be water dependent in nature; and
3. The proposal must demonstrate clearly its need to be in the wetlands and its overwhelming public and private benefits.

If the proposed project cannot meet one or more of the above criteria, the project must be denied or must occur in areas outside of wetlands. Should it satisfy all three criteria, however, compensation for the wetland loss is required. The sequence of acceptable mitigation options should be as follows: on-site, off-site within the same watershed, mitigation bank(s) in the same watershed, or a payment of an in lieu fee. If compensation is required, it should be a condition of the permit.

Staff has reviewed this application against the mitigation policy and finds that this project meets the three criteria outlined in the policy and there will not be a loss of any vegetated tidal wetlands.

### **STAFF RECOMMENDATIONS**

Staff recommends approval of the application. Should the Board wish to approve the application, staff suggests the following conditions be incorporated into the approval:

1. The applicant must obtain all other necessary local, state, and/or federal permits required for the project;
2. A surety in the amount of \$500 shall guarantee the 'no net-loss' wetland policy as outlined in 4VAC20-390-10 et seq. The surety shall be in a form acceptable to the James City County Attorney's Office. A post-construction field visit will be conducted to determine the extent, if any, of wetland impacts. If it is determined that no wetland impacts have occurred, the surety will be returned as soon as possible. If wetland impacts have been determined to have occurred, a suitable mitigation plan will be brought to the Wetlands Board for approval;
3. All development activities located in the special flood hazard area shall comply with Article VI, Division 3, Floodplain Area Regulations of the James City County Zoning Ordinance and receive all required approvals and permits prior to commencement of such activities;
4. The Wetlands Permit for this project shall expire on July 8, 2021, if construction has not begun; and
5. If an extension of the permit is needed, a written request shall be submitted to the Stormwater and Resource Protection Division no later than May 27, 2021, six weeks prior to the expiration date.

MDW/md  
WJPA19-21VMRC19-516JPRd

#### Attachment:

1. Joint Permit Application

## RESOLUTION

CASE NO. WJPA 19-0021/VMRC 19-0516. 2711 JOLLY POND ROAD

### JAMES CITY COUNTY WETLANDS PERMIT

WHEREAS, Mr. and Mrs. David and Tonya Pegram (the “Applicants”), have applied to the Wetlands Board of James City County (the “Board”) to request a permit to use and develop in areas designated as wetlands on property identified as James City County Real Estate Tax Map Parcel No. 3520100015C and further identified as 2711 Jolly Pond Road (the “Property”) as set forth in the application WJPA 19-0021/VMRC 19-0516; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, BE IT RESOLVED that the Wetlands Board of James City County, Virginia, following a public hearing, by a majority vote of its members FINDS that:

1. The anticipated public and private benefit of the proposed activity in the wetlands exceeds its anticipated public and private detriment.
2. The proposed development conforms to the standards prescribed in Section 28.2-1308 of the Code of Virginia, and the guidelines promulgated pursuant to Section 28.2-1301 of the Code of Virginia.
3. The proposed activity does not violate the purpose and intent of Chapter 22 of the James City County Code or Sections 28.2-1300 et. seq. of the Code of Virginia.
4. In granting this Wetlands Permit, the following conditions are hereby imposed:
  - a. The applicant must obtain all other necessary local, state, and/or federal permits required for the project; and
  - b. A surety in the amount of \$500 shall guarantee the ‘no net-loss’ wetland policy as outlined in 4VAC20-390-10 et seq. The surety shall be in a form acceptable to the James City County Attorney’s Office. A post-construction field visit will be conducted to determine the extent, if any, of wetland impacts. If it is determined that no wetland impacts have occurred, the surety will be returned as soon as possible. If wetland impacts have been determined to have occurred, a suitable mitigation plan will be brought to the Wetlands Board for approval; and
  - c. All development activities located in the special flood hazard area shall comply with Article VI, Division 3, Floodplain Area Regulations of the James City County Zoning Ordinance and receive all required approval and permits prior to commencement of such activities; and



- d. The Wetlands Permit for this project shall expire on July 8, 2021, if construction has not begun; and
- e. If an extension of the permit is needed, a written request shall be submitted to the Stormwater and Resource Protection Division no later than May 27, 2021, six weeks prior to the expiration date.

\_\_\_\_\_  
William Apperson  
Chairman, Wetlands Board

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Michael Woolson  
Secretary to the Board

Adopted by the Wetlands Board of James City County, Virginia, this 8th day of July, 2020.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ IN THE COMMONWEALTH OF VIRGINIA, IN THE COUNTY OF JAMES CITY.

\_\_\_\_\_  
NOTARY PUBLIC

MY COMMISSION EXPIRES: \_\_\_\_\_

WJPA19-21VMRC19-516JPRd-res



## **PUBLIC HEARING NOTICE**

THE WETLANDS BOARD AND THE CHESAPEAKE BAY BOARD OF JAMES CITY COUNTY, VIRGINIA WILL HOLD A PUBLIC HEARING **WEDNESDAY JULY 8, 2020 AT 5 P.M.** IN THE BOARD ROOM OF BUILDING F, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

THE WETLANDS BOARD WILL CONSIDER THE FOLLOWING CASES:

WJPA 19-0021/VMRC 19-0516: Ms. Karla Havens of Mid-Atlantic Resource Consulting, on behalf of David and Tonya Pegram, has applied for a wetlands permit to install an open-pile pier and boathouse at 2711 Jolly Pond Road, JCC Parcel 3520100015C.

THE CHESAPEAKE BAY BOARD WILL NOT MEET.

Appeals from decisions under the Chesapeake Bay Preservation Ordinance may also be heard.

All interested parties are invited to attend the meetings. There is also a call-in option for the public hearings. To participate, call 757-253-6772 to record a comment that will be played during the meeting. Recorded comments must be submitted no later than noon on the day of the meeting. Please give your name and address for the public record and limit comments to five minutes or less. Questions? Call 757-253-6823.

The applications and plans are on file and may be viewed during normal office hours in the Stormwater and Resource Protection Division, 101-E Mounts Bay Road, James City County, Virginia.

## **NOT FOR PUBLICATION**

DISPLAY: WEDNESDAY – June 24 and July 1, 2020.  
ACCOUNT NO.: 0011350200 - VIRGINIA GAZETTE

COPIES: PLANNING  
ASSISTANT COUNTY ATTORNEY  
WETLANDS/CHESAPEAKE BAY BOARD MEMBERS



General Services  
Stormwater and Resource  
Protection Division  
101-E Mounts Bay Road  
Williamsburg, VA 23185  
757-253-6790

Resource.Protection@jamescitycountyva.gov

June 17, 2020

RE: WJPA-19-0021  
2711 Jolly Pond Road  
Pier, Boathouse with Lift and Two Cat Walks,

Dear Adjacent Property Owner:

In accordance with State and County Codes, this letter is to notify you that a request has been filed with the James City County Wetlands Board by Karla S. Havens of Mid-Atlantic Resource Consultants on behalf of David and Tonya Pegram, for impacts to wetlands associated with construction of a pier, boathouse with lift and two cat walks. The project is located at 2711 Jolly Pond Road further identified as JCC Parcel No. 3520100015C.

A complete description, plan and other information are on file in the Stormwater and Resource Protection Division and are available for inspection during normal business hours, should anyone desire to review them.

The Wetlands Board will hold an advertised public hearing on **Wednesday, July 8, 2020 at 5:00 p.m.**, in the Board Room of Building F, 101 Mounts Bay Road, James City County, Virginia, at which time you may request to speak on the above referenced project.

Sincerely,

*Janice Petty*

Janice Petty  
Stormwater Assistant

cc: Mid-Atlantic Resource Consultants  
Attn: Karla S. Havens

Jordan Marine Construction  
Attn: Wilber Jordan

Mailing List for: WJPA-19-0021 – 2711 Jolly Pond Road – Pegram – Mid-Atlantic Resource Consultants – Jordan Marine Construction – Pier, Boathouse with lift and Two Catwalks

Applicant: 3520100015C

Pegram, David B & Tonya D  
2711 Jolly Pond Road  
Williamsburg, VA 23188-7511

Contractor

Mid-Atlantic Resource Consultants  
Attn: Karla S. Havens  
1095 Cherry Row  
Plainview, VA 23156-2027

3520100012-2675 Jolly Pond Road

Hogge, Robert H  
2673 Jolly Pond Road  
Williamsburg, VA 23188-7509

Contractor

Jordan Marine Construction  
Attn: Wilber Jordan  
P.O. Box 396  
Lightfoot, VA 23090-0396

3520100015E-2677A Jolly Pond Road

Hogge, Thomas R & Nikki  
2679 Jolly Pond Road  
Williamsburg, VA 23188-7509

3520100015F

Pascucci, Frank A & Grace A  
2693 Jolly Pond Road  
Williamsburg, VA 23188-7511

3520100013C

Thompson, Christopher Scott & Ginger Samuel  
2685 Jolly Pond Road  
Williamsburg, VA 23188-7509

3520100015D

Hogge, Thomas H  
2697 Jolly Pond Road  
Williamsburg, VA 23188-7509

3520100016-3783 Brick Bat Road

Armistead, R T & Hanson, Letitia A T & Cavanaugh, Michael J, Trustee  
3804 Poplar Hill Road, Suite B  
Chesapeake, VA 23321

3610100005-500 Thompson Lane

Thompson, Nathaniel R, III & Amy B  
3209 Woodland Lane  
Alexandria, VA 22309-2255

Virginia Marine Resource Center  
Attn: Allison Norris  
380 Fenwick Road, Building 96  
Fort Monroe, VA 23651-1064

36110100005-500 Thompson Lane

Thompson, Nathaniel R, III & Amy B  
500 Thompson Lane  
Williamsburg, VA 23188-1379

VIMS Wetlands Program  
Attn: Dawn Fleming  
P.O. Box 1346  
Gloucester Point, VA 23062-1346

Department of Game and Inland Fisheries  
P.O. Box 90778  
Henrico, VA 23228-0778

State Water Control Board  
c/o Department of Environmental Quality  
P.O. Box 1105  
Richmond, VA 23218-1105

Regulatory Branch Army Corps of Engineers  
803 Front Street  
Norfolk, VA 23510-1011

VDOT  
4451 Ironbound Road  
Williamsburg, VA 23188-2621