

**MINUTES**

**WETLANDS BOARD**

**February 17, 1993**

**A. ROLL CALL**

Mr. Lindsey  
Mr. Gussman  
Ms. McCleary  
Mr. Hughes

**ABSENT**

Mr. Cobb

**OTHERS PRESENT:**

John Patton

**B. MINUTES**

The minutes of the January 13, 1993 meeting were approved and adopted as presented.

**C. OLD BUSINESS**

None.

**D. NEW BUSINESS**

W-01-93;

Mr. Patton presented the staff report stating that Mr. Michael Kelly of the Williamsburg Environmental Group has applied on behalf of the Colonial Golf Course for a wetlands permit to construct an open pile golf cart bridge across a tidally influenced drainage area adjacent to Mill Creek. The address is 1301 Hockaday Road, and the property is further identified as parcel (1-2) located on James City County Real Estate Tax Map (9-4). He stated that the property in question is a vegetated freshwater marsh area which is a drainage way leading to Mill Creek. The proposed location of the bridge is at approximately the upper limits of the tidally influenced area. At present there is a substantial amount of beaver activity in the area which has altered the flow and tidal

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exchange, but this is considered a temporary condition as the beavers will move when the habitat is no longer suitable. It is estimated that less than 1000 square feet of freshwater tidal marsh will be impacted. The applicant has proposed to either use mats or build from the bridge deck to minimize the disturbance of the marsh.

Mr. Patton stated that the site plan for this golf course is still under review by county staff. Substantial questions remain regarding water quality protection, and acceptable disturbance within the Chesapeake Bay Preservation Areas. The site plans submitted to date have shown unacceptable clearing within the Resource Protection Area and are not yet approved for construction. While no real objection exists to the cart path plan as shown on the site plans, this in no way assumes that the site plan and clearing limits in total are accepted at this point. He stated that the open pile bridge structure is considered to have a minimal or insignificant adverse impact on the wetlands area and is preferable to any other means of crossing this drainage area. Staff recommends approval of the requested wetlands permit subject to the following conditions:

1. All construction over the wetlands area shall take place from the deck of the bridge. There shall be no disturbance of the marsh vegetation or substrate for the bridge construction other than what is necessary for driving piles.
2. The route of the bridge shall be established and flagged and must be approved by staff from the Code Compliance Office prior to any clearing taking place.
3. A land disturbing permit for the golf course, or at least the portion containing this site and surrounding area, shall be in effect prior to any work commencing for the bridge and its approaches.
4. The permit shall expire one year from date of issuance.

Mr. Patton provided a letter from Julie G. Bradshaw of VIMS with her remarks on the project.

Ms. McCleary questioned the site plan approval and how final the proposed construction and location of the golf cart bridge was and if any final design changes were anticipated and what impact that would have on the permit.

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Mr. Patton stated that the bridge location was selected as the narrowest point across and that it would cause the least impact. He further stated that staff would defer to Mike Kelly to find out how much flexibility the golf course design had for relocation, but any changes as to location would require resubmittal to the Board.

Mr. Lindsey opened the public hearing.

Mr. Mike Kelly, Williamsburg Environmental Group stated that he accepted staff's report as presented and would uphold staffs recommendations if the board would grant the wetlands permit. He further stated that he did not envision any changes at this time and that if he did, he realizes he would have to come before the Board again.

Mr. Lindsey closed the public hearing.

Mr. Gussman motioned to adopt the proposed project with staff recommendations.

The permit was approved unanimously with staff recommendations.

**E. MATTERS OF SPECIAL PRIVILEGE**

Walker W. Ware, III; Restoration/Monitoring Plan

Mr. Patton stated his initial reaction to Mr. Ware's revised monitoring plan which was that it was still lacking in some aspects. He stated that he had not had the opportunity to speak with Mr. Ware about his revised monitoring plan. He stated that he was not prepared to make a staff recommendation at this time. Mr. Patton recommended to the board that they review the report prepared by VMRC on civil penalties. He stated that at this point there are three options open which are as follows.

1. Criminal penalties
  - a. Misdemeanor
2. Civil penalties
  - a. Civil charge that the wetlands board has jurisdiction over with the consent of Mr. Ware.

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b. Civil charge under circuit court.

Mr. Gussman asked Mr. Patton to break down and summarize all costs to the county pertaining to this case.

Mr. Lindsey concurred with Mr. Patton on behalf of the board and stated that they would prefer more time to review the monitoring plan submitted by Mr. Ware.

Mr. Ware spoke on his behalf and stated that there is a fourth option in this matter. He stated that there could be no fines and no penalties. He stated that he is not impacting marsh. He stated that he only wished that the Board would have an open mind about the situation. He further stated that he did not know that the Board had authority over his land.

Mr. Lindsey speaking for the Board stated that they do review this matter with an open mind, but the job of the wetlands board is to oversee the wetlands in James City County.

Mr. Ware stated that he is trying to protect his land from erosion.

Mr. Lindsey stated that the boards motives are to protect and preserve the wetlands of the county.

Mr. Lindsey asked Mr. Ware for his permission to go out and look at his property.

Mr. Ware granted permission with the condition that he escort him.

Mr. Ware stated to the board that "time is of the essence." He questioned the board that if the weather permits and the land ever gets dry, can he go out and do the work.

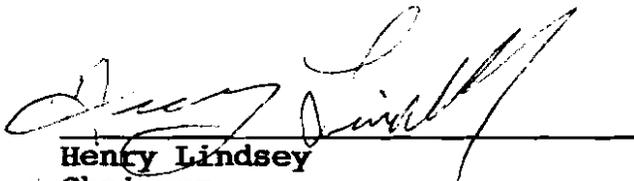
Mr. Patton stated to Mr. Ware that he is to meet the conditions of the restoration order before he can commence the removal of the fill.

Mr. Patton clarified with Mr. Lindsey that it is the boards decision to discuss any penalties and the monitoring plan at the next wetlands meeting.

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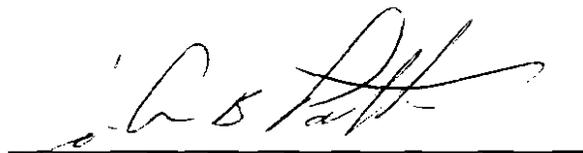
**F. ADJOURNMENT**

Mr. Lindsey adjourned the meeting at 7:26pm.



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Henry Lindsey  
Chairman



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John Patton  
JCC Zoning Officer