

WETLANDS BOARD

MINUTES

JUNE 8, 1994

A. **ROLL CALL**

PRESENT

ABSENT

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

**OTHERS PRESENT:**

John Patton, Zoning Officer  
Jay Lipscomb, VMRC

B. **MINUTES**

The minutes of the April 13, 1994 were approved as presented.

C. **OLD BUSINESS**

None

D. **NEW BUSINESS**

W-5-94; Governor's Land Management Company

Mr. Patton presented the staff report stating that Governor's Land Management Company has applied for a modification of wetlands permits W-13-90 & W-30-93 and for a wetlands permit to construct an additional 1,200 linear feet of shoreline stabilization using headland breakwaters and beach nourishment along the James River between Barrets Point and the eastern edge of Governor's Land subdivision. The property in question consists of escarpments along the James River from shallow benches to fifteen foot vertical banks. Representatives from VIMS and Code Compliance visited the site on May 13, 1994. It is estimated that approximately 35,943 square feet of non vegetated tidal area (Type XV) will be impacted by this request.

Mr. Patton further stated that the modifications to the previous permits would change the rip rap revetments that were to follow the natural shore line from Barrets Point to the entrance of the new

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marina to a series of rip rap breakwaters. These breakwaters are designed to create beaches in front of the proposed lots along the river. The existing vertical bank would be graded back to a 3.5 to 1 slope and tied into a 8 to 1 slope on the proposed beach fill area. The beach areas behind the break waters would be sprigged with *Spartina alterniflora* to produce vegetated wetlands. This design change will impact more wetlands area. Especially previously undisturbed subaqueous areas but the overall net result could result in a softer shoreline and the establishment of vegetated wetlands in an area where none now exists. This is similar to a design that has been used very effectively a mile downstream at Drummonds Field. In addition, the design of the eastern-most breakwater and spur may help in trapping sediment that would otherwise add to the siltation of the marina's channel. It is the staff recommendation that the modification be granted with the following conditions.

1. The conditions of W-30-93 remain in effect including the expiration date of August 31, 1995.
2. Governor's Land Management Company develop a Monitoring plan satisfactory to the Wetlands Board to insure that viable vegetated wetlands are created in the vegetated beach nourishment areas. The monitoring plan must include a minimum of three growing seasons.

Mr. Lindsey clarified the expiration date of W-30-93.

Mr. Lindsey opened the public hearing.

Mr. Mike Kelly of Williamsburg Environmental Group spoke on behalf of the application for modification.

Ms. Nancy Ibison, SEAS spoke on how they came up with proposed calculations.

Mr. Jim Bennett of Governor's Land Management asked if staff would provide a sample Monitoring Plan.

Mr. Patton said yes.

Mr. Patton continued the presentation of the staff report stating that the new area to be permitted is approximately 1200 feet of shoreline at the eastern end of the subdivision. At the extreme eastern edge there is a tidal marsh and cypress trees, upstream from there the shoreline is characterized by steep slopes up to

fifteen feet in height with moderate erosion clearly evident with numerous trees sloughing off into the river, broken by one low lying marsh. The proposed use of the property is for large individual building lots for single family dwellings and open space. As in the modification discussed earlier, this proposal is for a series of nine breakwaters designed for beach nourishment and the establishment of vegetated wetlands behind the breakwaters. Some sort of shoreline stabilization is appropriate at this location. The main concern with the proposal is the amount of vegetated Resource Protection Area (RPA) fastland that would be destroyed if the vertical slopes were cut back to 3.5 to 1 slope. This would result in 52.50 feet of RPA being cleared and cutback in areas where the bank is 15 feet high. This is considered to be excessive and unnecessary for shoreline stabilization. To be consistent with previous recommendations it would be appropriate to permit clearing of large trees as necessary within 10 feet of the edge of the bluff and the slopes terraced or graded to no less than 2 to 1 slope and stabilized with appropriate vegetation. It is the staff recommendation that wetlands permit be granted for approximately 1200 linear feet of shoreline stabilization as proposed in the application with the following conditions:

1. No land disturbing activity may occur in the vicinity of any archaeology site which may be eligible for inclusion in the National Registrar except in accordance with an archaeological treatment plan approved by the James City County Historic Commission.
2. The plan be modified so as to minimize destruction of existing vegetation in the Resource Protection Area and to preserve the trees and vegetation along the bank with no grading or land disturbance more than ten feet landward from the existing edge of the bluff or high water mark. Approval must be obtained by the Code Compliance Office for access to any sensitive areas prior to construction.
3. Land Disturbing Permits and Siltation Agreement for shoreline stabilization, with surety, must be in place with the Code Compliance Office prior to construction or land disturbing activity related to this permit.
4. The alignment must be staked and approved by the Code Compliance Office prior to any land disturbing activities or construction.

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5. A turbidity curtain shall be in place to reduce siltation going into the river from construction activity along the shoreline.

6. This permit shall expire on June 31, 1997.

The extended time limit is recommended on this permit since no start date has been established for this portion of the project.

Mr. Mike Kelly of Williamsburg Environmental Group spoke on behalf of the application.

Mr. Gussman asked how they obtained their measurements.

Nancy Ibison of SEAS spoke on behalf of the gap width and the proposed ratio.

Mr. Kelly asked for a drawing depicting what staff is requesting.

Mr. Patton commenced to show the board what staff was requesting.

There was brief discussion among the board members on the proposed slope and what the Office Of Code Compliance requires.

Ms. McCleary asked if they could defer action of this application to allow Governor's Land to come up with a plan to meet staff's conditions.

Ms. Ibison spoke once again on the SEAS report.

Mr. Kelly requested a deferrment to work out a modification to the application for W-5-94.

Mr. Lindsey closed the public hearing for modification request of wetlands permits W-30-90 and W-13-93 and left the public hearing open for W-5-94.

Mr. Gussman motioned to approve the requested modification to wetlands permits W-30-90 and W-13-93 with staff's conditions.

The motion carried unanimously.

Mr. Hughes motioned to defer the case pending an amended proposal meeting staff's conditions.

Mr. Jones seconded the motion.

The motion to defer carried unanimously.

W-6-94; Dan Nice

Mr. Patton presented the staff report stating that Dan Nice has applied for a wetlands permit to construct 140 linear feet of wooden tongue and groove bulkhead along a man-made canal at 123 Branscome Blvd. in the Powhatan Shores subdivision. The property in question consists of vegetated wetlands and mudflat along a gently sloping bank of a man-made canal. It is estimated that approximately 420 square feet of tidal area (Type XI, freshwater mixed community) will be impacted by this request. The request is that the bulkhead be placed 2 feet channelward of mean high water and tie into two existing bulkheads at either end of the property. It is VIMS recommendation that it be placed landward of all wetlands vegetation in order to minimize the impact on the marine environment. This could be done by tying the bulkhead into the return walls of the existing bulkheads and constructing the bulkhead along the toe of the bank above wetlands vegetation. It is the staff recommendation that a wetlands permit be granted for 140 feet of wooden tongue and groove bulkhead with the following conditions:

1. The bulkhead be aligned with the toe of the bank and the alignment be staked and approved by the office of Code Compliance prior to construction.
2. The bulkhead ends and any significant bends be identified in relation to at least two permanent features on the property for future alignment verification.
3. The office of Code Compliance inspect the tie backs, deadmen and filter cloth prior to backfilling.
4. The permit shall expire June 9, 1995.

Mr. Lindsey confirmed that there is a pine tree right in line with running the bulkhead from adjacent bulkheads.

Mr. Lindsey opened the public hearing.

Mr. Daniel Nice, applicant, spoke on behalf of his application for a wetlands permit. He asked for a clarification of what staff is recommending.

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Mr. Hughes questioned running the bulkhead from the corner of one adjacent bulkhead to the return wall of the other bulkhead to avoid this pine tree.

Mr. Lindsey closed the public hearing.

Mr. Hughes motioned to modify staff's first recommendation to state "The bulkhead be in a straight line aligned with the toe of the bank such that the pine trees are preserved, and the alignment be staked and approved by the Code Compliance office prior to construction," and add an additional condition stating that "The bulkhead is not to be any more forward than the neighboring bulkheads."

The motion was carried unanimously.

W-7-94; Andre Gill

Mr. Patton presented the staff report stating that Mr. Andre Gill has applied for a wetlands permit to construct 135 linear feet of wooden tongue and groove bulkhead with a 5 foot return wall and 24 foot long covered boat lift on a man made canal at 7234 Otey Drive in the Chickahominy Haven subdivision. The property in question consists of a single family residential lot on a man made dead-end canal. Representatives from Code Compliance visited the site on May 13, 1994. It is estimated that approximately 270 square feet of tidal area (Type XV, sand/mudflat) will be impacted by this request. Little or no wetlands vegetation is evident on the site. VIMS reports that the individual and cumulative adverse impacts resulting from this request will be minimal. It is the staff recommendation that a wetlands permit be issued for this application with the following conditions:

1. The bulkhead be aligned with the toe of the bank as much as practicable to maintain a straight bulkhead. The alignment be staked and approved by the office of Code Compliance prior to construction.
2. The bulkhead ends and return wall be identified in relation to at least two permanent features on the property for future alignment verification.
3. The office of Code Compliance inspect the tie backs, deadmen and filter cloth prior to backfilling.
4. The permit shall expire June 9, 1995.

Mr. Lindsey opened the public hearing.

No one wishing to speak, Mr. Lindsey closed the public hearing. Ms. McCleary motioned to approve the application with staff's recommendations.

The motion carried unanimously.

W-8-94; Anna C. Sim

Mr. Patton presented the staff report stating that Ms. Anna Sim has applied for a wetlands permit to construct approximately 170 linear feet of wooden tongue and groove bulkhead along Tutters Neck Creek at 245 Richard Burbydge in the Kingsmill subdivision. The property in question consists of a moderately eroding bank of Tutters Neck Creek, it is flanked on the downstream side by property owned by the National Park Service and designated as a scenic easement. It is estimated that approximately 340 square feet of tidal area (Type XV sand/mud flat) will be impacted by this request. Erosion of the bank has undercut many large trees along the creek and they are sloughing off into the creek. Some sort of shoreline protection is warranted at this site. Rip rap as a method as been ruled out by the owner as being cost prohibitive since it would all have to be brought in by truck with no acceptable way of getting it down the steep slope to the site without destroying a great deal of vegetation on a very steep slope in the RPA. Representatives from VIMS and the Shoreline Erosion Advisory Service (SEAS) have visited the site and made recommendations. Both noted that no filter cloth was being used and no backfill was proposed at this time. They both recommended that filter cloth be installed to take advantage of any natural filling that may take place and enhance the usefulness of the bulkhead. The SEAS report went into detail on the specific plans submitted and made several recommendations. One of the most significant related to the proposed height of the bulkhead. SEAS recommended that the bulkhead be constructed at least 6.5 feet above mean low water to prevent overtopping under storm conditions. The contractor is proposing a bulkhead height of 4 to 5 feet above the bottom.

Mr. Patton further stated that the National Park Service has reviewed the application and expressed some concern about the height of the bulkhead and the clearing of trees along the bank due to the visual impact in relation to the Colonial Parkway and their Scenic Easement. In addition an adjacent property owner expressed concern about the disturbance of the natural ecology of the area by the structure as well as disturbing the natural vistas. The

property is approximately .3 mile from the Colonial Parkway at its nearest point. Other properties in Kingsmill on Halfway Creek are within 400 feet of the Parkway. It is staff recommendation that a bulkhead be permitted as proposed in the Joint Permit Application with the following conditions:

1. That the bulkhead be constructed no less than five feet above the bottom.
2. That return walls be constructed at both ends of the structure.
3. That filter cloth be installed to trap any sediment available and begin the back fill process.
4. That trees and shrubs growing on the bank and within 10 feet of the mean high water position be selectively cut or trimmed. Especially trees with exposed roots or leaning toward the water.
5. Those areas exposed by tree removal be graded to a slope of 2 to 1 and reseeded to prevent further erosion.
6. This permit shall expire June 9, 1995.

Mr. Lindsey questioned SEAS recommendations and the bulkhead height.

Ms. Ibison, of SEAS, spoke on how they came up with the figures in their report.

Mr. Gussman questioned boat traffic and stated that the area never appeared to him to have a significant amount of erosion.

Ms. McCleary stated that the VIMS report had stated three alternatives and asked why the first alternative consisting of grading, removing trees that are hanging over and then planting to establish wetlands vegetation.

Ms. Ibison described why this was not a viable option.

Mr. Hughes explained that he had visited the site and that there is a serious erosion problem and that rip rap is not an option because there would be no way to place the stone.

Mr. Lindsey opened the public hearing.



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Mr. Daniel Winall of Water's Edge Construction offered a revised drawing of the cross section to the Board and explained to the board how he proposed to construct the bulkhead.

Ms. Anna Sim spoke on behalf of her application.

Mr. Lindsey closed the public hearing.

Mr. Gussman stated that he was opposed to allowing the construction of the bulkhead because he does not feel that there is a tremendous erosion rate.

Mr. Jones asked if the proposed bulkhead would increase neighboring erosion.

Mr. Patton stated that at the return walls there is potential for scouring.

Mr. Hughes stated that the return on the upland side is marsh.

Ms. McCleary stated that she agreed with Mr. Gussman and she preferred to see the applicant research other options.

Mr. Hughes motioned to approve the application with staff's recommendations.

The motion was carried with Mr. Gussman and Ms. McCleary dissenting.

W-9-94; Philip M. Stowell  
W-11-94; Kenneth E. Martin  
W-13-94; L. W. Sweat

Mr. Patton presented the staff report stating that with the Board's concurrence he would address all three of these wetlands permit applications simultaneously. The three properties are adjacent to each other and the same contractor, Daniel Winall of Water's Edge Construction, is performing the work. The overall proposal is for approximately 266 linear feet of wooden tongue and groove bulkhead 2 feet channelward of existing failing bulkheads and 45 linear feet of rip rap revetment in front of a failing bulkhead. The lots are located in the Chickahominy Haven subdivision adjacent to the Chickahominy River. The shoreline is characterized by Type XV, sand/mud flat wetlands with scattered cypress trees and minimal vegetation. Specifically:

Philip M. Stowell requests to construct 65 linear feet of wooden tongue and groove bulkhead and 45 linear feet of rip rap revetment in front of an existing bulkhead at 3076 North Riverside Drive.

Kenneth E. Martin requests to construct 35 linear feet of wooden tongue and groove bulkhead 2 feet channelward of a failing bulkhead at 3070 North Riverside Drive.

L. W. Sweat requests to construct 166 linear feet of wooden tongue and groove bulkhead 2 feet channelward of a failing bulkhead at 3074 North Riverside Drive.

Mr. Patton further stated that representatives from Code Compliance, VIMS, and VMRC have visited the site and confirmed that the existing bulkheads are in need of repair. The VIMS report states that in their opinion the individual and cumulative adverse impacts resulting from this activity will be minimal. The total wetlands impacted by these permits will be 1,032 square feet. It is the staff recommendation that wetlands permits be granted for these projects as requested in their applications with the following conditions:

1. The bulkheads be placed no more than two feet channelward of the existing bulkheads.
2. The bulkheads be constructed in such a way as to preserve the cypress trees and cypress knees.
3. No fill or rip rap is to be placed over the cypress knees.
4. The Office of Code Compliance must conduct an inspection of the filter cloth and tie backs prior to any filling.
5. These permits shall expire June 9, 1995.

Mr. Lindsey opened the public hearing.

Mr. Daniel Winall spoke on behalf of the applications and offered how he proposed to save the cypress trees.

Ms. Ibison offered information about the SEAS report.

Mr. Lindsey closed the public hearing.

Mr. Patton modified the first condition to read "that the bulkheads be placed no more than two feet channelward of the existing bulkheads except as determined by staff to be necessary to save the cypress trees.

Ms. McCleary motioned to approve the application with staff's recommendations.

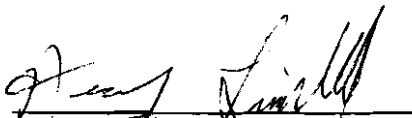
The motion carried unanimously.


**E. MATTERS OF SPECIAL PRIVILEGE**

Ms. Nancy Ibison of SEAS made a slide presentation for the board.

**F. ADJOURNMENT**

The meeting was adjourned at 10:45 P.M.

  
Henry Lindsey  
Chairman

  
John Patton  
Zoning Officer