

**WETLANDS BOARD
MINUTES**

AUGUST 12, 1998 - 7:00PM

A. ROLL CALL ABSENT

Henry Lindsey
John Hughes
James Jones
David Gussman
Larry Waltrip

None

OTHERS PRESENT

Darryl E. Cook, Environmental Engineer
Environmental Staff
Tracy West, VMRC

B. MINUTES

Approval of the July 8, 1998 minutes were approved as presented.

C. OLD BUSINESS - None

D. NEW BUSINESS

1. W-17-98: Greater First Colony Area Civic Assoc. - First Colony Beach

David Meador presented the case stating that the Greater First Colony Area Civic Association has applied for a wetlands permit for dredging boat slips, beach nourishment and sand replenishment to the First Colony beach, located at 94 Shellbank Drive in the First Colony subdivision. The property is further identified as parcel (4-1) found on James City County Real Estate Tax Map No. (45-3).

The First Colony beach is located on the James River. An Environmental Inspector and Julie Bradshaw from VIMS visited the site on July 29, 1998. It is estimated that 1000 square feet of Freshwater Water Mixed Community (Type XI) and 900 square feet of Sand Flat Community (Type XIV) will be impacted by this application.

The intention of this permit is to allow the dredging of sand from the boat slips and placing the sand on the beach and around the existing cypress trees. Additional sand will be hauled in to complete the beach nourishment and sand replenishment.

Previous permits have been issued to First Colony Civic Association. One was to extend the existing rip rap groin and another was to construct two wooden groins with spurs. Neither of these proposals were installed. Consideration should be given in the future to install an offshore breakwater and/or extending the existing groin to help protect the beach nourishment area.

It is the staff's recommendation to approve this application with the following conditions:

- 1) Only 100% sand is to be placed on the beach and around the cypress trees.
- 2) When placing the sand on the beach, the final grade of the sand is to stay below the existing timber walls.
- 3) Caution should be taken when placing the sand around the cypress trees, so the cypress knees are not damaged.
- 4) This permit will expire on August 12, 1999.

Mr. Meador added that the applicant had requested that the permit be issued for more than one year or be granted annual extensions.

Mr. Lindsey inquired as to why the previously permitted wooden groins and riprap had not been completed.

Mr. Meador said the applicant will respond to that issue.

Mr. Lindsey opened the public hearing.

- A. Mr. O. Marvin Sowers, applicant, informed the Board that because sand gets pushed up onto the beach and into the marina, it needs to be removed on an annual basis. He further stated that SEAS recommends that a breakwater system be installed in lieu of the groin system and sand replenishment.

Mr. Lindsey stated he was concerned with the amount of impact on wetlands of 1,900 square feet.

Mr. Sowers explained that the sand would be put back into areas that were sand before. The sand would only be retrieved from adjacent bulkheads, and no silt would be used. Mr. Sowers also stated that the Army Corps of Engineers concurred with SEAS recommendation.

Mr. Lindsey closed the public hearing.

Mr. Hughes stated his concerns regarding the placement of the sand and the amount being removed. He stated he would like the County to be involved in any work performed on the beach.

Mr. Waltrip inquired as to which areas would be impacted by the project.

Mr. Meador described those areas to the Board.

Mr. Hughes made a motion to approve case W-17-98 with staff's recommendations.

The motion was approved by a unanimous vote.

2. W-18-98: Anna Sim - 232 Richard Burbydge

Gerry Lewis presented that case stating that Ms. Anna Sim has applied for a wetlands permit to install 300 linear feet of timber tongue and groove bulkhead at 232 Richard Burbydge in Kingsmill. The property is further identified as parcel (2-149) found on James City County Real Estate Tax Map (49-4).

The property in question is along Halfway Creek. An Environmental Division inspector visited the site on July 29, 1998. It is estimated that approximately 600 square feet of tidal area (Type VII, Arrow Arum - Pickerel Weed Community) will be impacted by this application request.

It is the staff's recommendation that a wetlands permit be issued for this application with the following conditions:

- 1) A Land Disturbing Permit with surety will be required for upland disturbance. A replanting plan will be required as part of the land disturbing permit (See note #6).
- 2) Prior to any land disturbing or construction work, a preconstruction meeting with the Environmental Division personnel will be held on site.
- 3) Tie backs will be required on the bulkhead unless an engineered report is provided certifying that the submitted design is adequate.
- 4) Filter cloth and tie backs(if necessary) will be inspected prior to backfilling.
- 5) Regrading of existing earthen slopes will be permitted only to the extent necessary for tie backs.

- 6) The up slope disturbed areas shall be restabilized with native grasses and replanted with trees and shrubs. Specific trees to be removed for access and along the fringe of the bulkhead, will be determined at the preconstruction meeting. The number and species of trees to be replanted will be determined based on construction access impacts.
- 7) The permit shall expire on August 12, 1999.

Mr. Lindsey questioned the need for a permit as even though the slope is steep, it is stabilized.

Mr. Hughes stated his concern stating that if the existing trees next to the proposed bulkhead were left, they could damage the bulkhead over a period of time.

Mr. Lindsey opened the public hearing.

- A. Mr. Daniel Winall, Water's Edge Construction, agent and contractor, informed the Board that the proposed project will stop undermining of the bank. He further stated that existing trees within 5-6 feet of the bulkhead would be removed.
- B. Ms. Anna Sim, owner, addressed the Board. She explained to the Board the existing erosion problem and sources of the erosion, one of which she felt was jet skiers. She also explained the reasoning behind the project design. She stated she wanted to have minimal impact to the existing trees, as well as to protect visually the Colonial Williamsburg property.

Mr. Lindsey closed the public hearing.

Mr. Jones moved that case W-18-98 be approved with staff's recommendations.

The motion was approved unanimously.

3. W-19-98: Gene Sherer - 6007 Tabiatha Lane

Mark Eversole presented the case stating that Mr. Gene Sherer, property owner of 6007 Tabiatha Lane, has applied for a permit to install 110 linear feet of bulkhead. The property is further identified as parcel (6-22) on the James City County Real Estate Tax Map (19-1).

The property in question is located along a canal leading into the Chickahominy River. Representatives from the Environmental Division visited the site on July 29, 1998. There will be up to 220 square feet of impact to Type XVI, Mud Flat Community wetlands for the installation of 110 linear feet of bulkhead. There will be two five foot return walls installed at each corner.

The purpose of the bulkhead is to protect the existing shoreline and to provide reasonable access to the waterway. It is staff's recommendation that this permit be approved with the following conditions:

- 1) The new bulkhead shall be installed no more than two feet channelward of MHW.
- 2) Both ends of the bulkhead shall have five foot return walls installed..
- 3) The bulkhead shall not exceed four feet in height.
- 4) The Environmental Division shall inspect the tie backs, deadmen and filter fabric prior to backfilling.
- 5) A building permit shall be obtained.
- 6) A James City County land disturbing permit may be required for any proposed upland disturbance. Up slope disturbance shall be stabilized with non-invasive vegetation.
- 7) The permit shall expire August 12, 1999.
- 8) An onsite preconstruction meeting with representatives from James City County's Environmental Division is required prior to any construction activities.

Mr. Lindsey opened the public hearing.

A. Mr. Gene Sherer, owner, informed the Board he would answer any questions that they had .

Mr. Hughes asked Mr. Sherer if he had hired a contractor for this project.

Mr. Sherer responded that he would probably hire Don Hicks for the job.

Mr. Lindsey closed the public hearing.

Mr. Jones moved that case W-19-98 be approved with staff's recommendations.

The motion was approved unanimously.

4. W-20-98: Ruth Slutsky - 155 West Landing

Gerry Lewis presented the case stating that Ms. Ruth Slutsky has applied for a wetlands permit to install 189 linear feet of rip rap over existing concrete rubble revetment at 155 West Landing. The property is further identified as parcel (12-18) found on James City County Real Estate Tax Map (50-3).

The property in question is along the James River. An Environmental Division inspector visited the site on July 29, 1998. It is estimated that approximately 1900 square feet of intertidal rubble riprap area will be impacted by this application request.

The drawings submitted with the application indicate that the proposed rip rap is to be 189 linear feet long, approximately 25 feet wide and will be installed on top of existing concrete rubble. The existing concrete rubble is not installed over filter cloth and is presently sloped at approximately a 2.5:1 slope.

It is the staff's recommendation that a wetlands permit be issued for this application with the following conditions:

- 1) Prior to any land disturbing or construction work, a preconstruction meeting with the Environmental Division personnel will be held on site.
- 2) The rip rap shall be class 2 (150-500 lb.) installed over the existing concrete rubble.
- 3) The toe of the new rip rap shall not extend channelward more than 2'.
- 4) The rip rap revetment shall have a slope of 2:1 maximum when completed.
- 5) The permit shall expire on August 12, 1999.

Mr. Jones inquired if the adjacent projects had been completed.

Mr. Lewis responded that they had not been completed.

Mr. Lindsey opened and closed the public hearing as there was no one present to speak.

Mr. Hughes moved that case W-20-98 be approved with staff's recommendations.

The motion was approved unanimously.

E. MATTERS OF SPECIAL PRIVILEGE

1. James City County Wetlands Mitigation-Compensation Policy

The Board reviewed material developed by staff regarding wetlands permitting activities in the 1990s. The information showed that there have been a total of 94 permits issued so far this decade allowing a total of 182,938 square feet of tidal wetlands to be impacted. The information was requested to help the Board develop a mitigation-compensation policy based on the size of the wetlands impact rather than the type of project.

Based on the information provided, Mr. Hughes observed that requiring compensation for projects that impact 2,000 square foot or more of wetlands would result in compensation on most commercial projects but very few noncommercial projects. Mr. Jones agreed and stated that treating commercial and noncommercial project impacts the same would be more equitable and defensible as the same wetland resource is lost regardless of whether the project is for commercial or private purposes. Mr. Cook stated that in his conversations with the County Attorney and Mr. Tony Watkinson of the VMRC, there may be a problem with being less restrictive than the state VMRC Mitigation policy

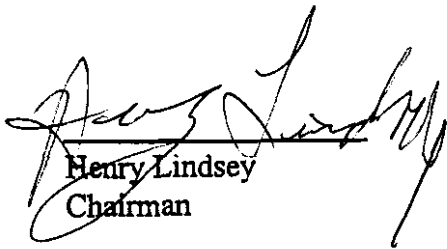
which generally requires compensation for all commercial projects and for noncommercial ones in excess of 1,000 square feet.

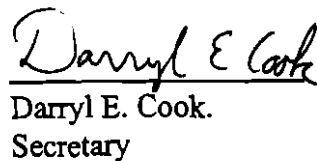
Mr. Gussman questioned whether the VMRC policy was binding on the local Wetlands Board or if we could adopt a policy with less restrictive requirements. Traycie West, VMRC, stated that in her opinion, the state policy was binding as it was a regulation, VR 450-01-0051. It was requested by the Board that the County Attorney's office be represented at the next meeting to answer the legal issues involved with the policy.

There was also discussion on making sure that any policy developed would address the cumulative impacts of multiple permits issued to one entity. Governor's Land, for example, was issued nine permits since 1990 for a total wetlands impact of over 100,000 square feet. On future cases presented for applicants that have been issued previous permits, the Board would like the total amount of wetlands permitted to date (since 1990) to be included in the staff report.

F. ADJOURNMENT

The meeting was adjourned at 9:00 P.M.


Henry Lindsey
Chairman


Darryl E. Cook.
Secretary