

**WETLANDS BOARD
MINUTES**

SEPTEMBER 9, 1998 - 7:00PM

A. ROLL CALL

Henry Lindsey
John Hughes
James Jones

ABSENT

David Gussman
Larry Waltrip

OTHERS PRESENT

Darryl E. Cook, Environmental Engineer
Environmental Staff

B. MINUTES

Approval of the August 12, 1998 minutes were approved as presented.

C. OLD BUSINESS - None

D. NEW BUSINESS

1. W-22-98: Gilbert Crist & Cecilia Williamson - 6021 Tabiatha Lane

Mr. Pat Menichino presented the case stating that Mr. Gilbert Crist and Cecilia M. Williamson, property owners of 6021 Tabiatha Lane, have 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.

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 or be tied into the existing bulkheads on each end.
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 shall be required for any proposed upland disturbance and tree removal. Up slope disturbance shall be stabilized with non-invasive vegetation.
7. The permit shall expire, September 9, 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.

Ms. Cecilia Williamson, property owner, stated that she wanted the bulkhead to be in line with the existing bulkheads on either side of her property. She stated she would be happy to address any questions from the Board.

Mr. Lindsey closed the public hearing.

Mr. Hughes and Mr. Lindsey spoke in favor of installing the bulkhead in line with the existing bulkheads.

Mr. Jones made a motion to approve case W-22-98 with staff's recommendations.

The motion was approved by a 3-0 vote.

2. W-24-97: Wayne Warren - 4107 South Riverside Drive - Permit Extension

Mr. Cook presented the case by summarizing the letter written by Wilbur Jordan, the applicant requesting the extension. The letter indicated that the Army Corps of Engineers had misplaced the applicant's paperwork. All paperwork had been obtained, however the time lost had made it impossible to complete the work by the expiration date given by the Board.

Mr. Jones made a motion to approve extending the expiration date on case W-24-97 from September 10, 1998 to September 10, 1999.

The motion was approved by a 3-0 vote.

3. W-26-97: First Colony Beach - Boat Basin Groins - Permit Extension

Mr. Cook presented the case stating that the applicant wanted additional time to decide on the most cost-effective long term solution to the beach erosion problem. Mr. Cook stated that he felt the applicant requested the extension so as keep their options open.

Mr. Hughes made a motion to approve extending the expiration date on case W-26-97 from September 10, 1998 to September 10, 1999.

Mr. Jones stated that he was uncomfortable in having several outstanding permits for this project and suggested that the Board give the applicants a time frame in which they needed to make a decision on what they wanted to do and then come back to the Board with one request for one permit.

Mr. Hughes made an amendment to his motion to approve extending the expiration date on case W-26-97 from September 10, 1998 to November 10, 1998.

The motion was approved by a 3-0 vote.

E. MATTERS OF SPECIAL PRIVILEGE

1. James City County Wetlands Mitigation-Compensation Policy

Mr. Cook introduced Mr. Leo Rogers, Deputy County Attorney, and Mr. Andrew Herrick, Assistant County Attorney, and stated they would address the Board's concerns and inquires regarding legal impacts of the mitigation-compensation policy.

Mr. Rogers informed the Board that the present James City County Ordinance requires all wetland permit applicants to meet the State VMRC Mitigation Policy requirements. In order for the Board to change the county ordinance, the Board of Supervisors must approve it. In response to questions from Board members, Mr. Rogers stated the county ordinance could be less restrictive than the State's policy. He suggested the Board prepare the guidelines it wanted to adopt and then forward those guidelines to the Board of Supervisors along with the State guidelines and let the Board of Supervisors compare the two guidelines so that they could determine the intent of the Wetlands Board's changes. He further stated that a public hearing may benefit the Board in helping them to decide on guidelines to adopt.

In response to questions by the Board relating to cumulative permits and the distinction between noncommercial vs. commercial projects, Mr. Rogers stated that cumulative impacts of multiple permits to one entity could be enforced, however he felt record keeping could be a problem. He further stated that single family lots only are considered noncommercial and everything else is commercial.

A discussion was held on where the funds received from mitigation-compensation would be held. Mr. Rogers stated that if the County were to hold them, a separate Capital Improvements Project Account would need to be established.

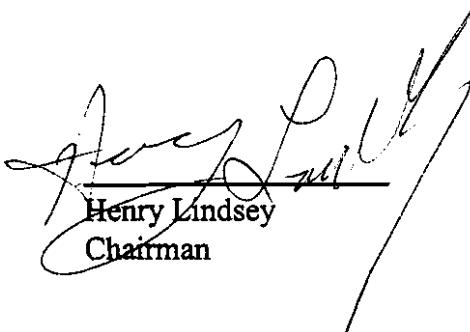
Mr. Cook informed the Board that a Virginia Restoration Trust Fund exists which could be used and is operated for the Army Corps of Engineers and administered by the Land Conservancy. He said it costs approximately \$2.00 per square foot for mitigation; however, the Board would not know where the money would be spent and it could be used outside the county.

Mr. Rogers cautioned the Board that he would not recommend using the Land Conservancy to distribute County money. He further stated that there is not a time limit on when the money must be spent. He stressed to the Board that all applications received for their consideration must be in compliance with the State guidelines, as that was the law at this time.

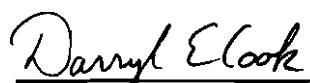
As the Board wanted all Board members present for discussion on the appropriate action to take, the issue was deferred until the next Board meeting. The Board then requested staff to: 1. Send major engineering companies copies of the State VMRC Mitigation Policy and inform them that the County is enforcing this policy: 2. Research where funds collected for mitigation-compensation would be collected: 3. Research how to determine the value of different wetlands: and 4. Contact a representative from VMRC and request they be present at the next Board meeting.

F. ADJOURNMENT

The meeting was adjourned at 8:35 P.M.



Henry Lindsey
Chairman



Darryl E. Cook
Darryl E. Cook.
Secretary