

**WETLANDS BOARD
MINUTES**

NOVEMBER 8, 2000 - 7:00PM

A. ROLL CALL

ABSENT

Henry Lindsey
John Hughes
Larry Waltrip

Philip Duffy
David Gussman

OTHERS PRESENT

Darryl E. Cook, Secretary to the Board
Environmental Staff

B. MINUTES

Approval of the September 14, 2000 minutes were approved as presented.

C. OLD BUSINESS - None

D. PUBLIC HEARINGS

1. W-15-00: Colonial Williamsburg Foundation - Country Road

Mr. Mike Woolson presented the case stating that Mr. Phillip Goering, of DJG Inc., on behalf of the owner, Colonial Williamsburg Foundation, had applied for a wetlands permit to raise the existing Carter's Grove Country Road crossing across Grove Creek to prevent roadway flooding and riprap the road shoulders at existing bridge wingwalls. The property is further identified as parcel (1-2) found on the James City County Real Estate Tax Map (51-3). The applicant has requested deferral of this application. It is the staff's recommendation that this application be deferred until such time as the applicant requests the project be heard by the Board. Mr. Woolson stated the applicant requested the deferral as they were unsure where they would mitigate and they also wanted to lessen the wetlands impacted.

Mr. Lindsey opened the public hearing. No one spoke. Mr. Lindsey stated the public hearing would remain open until such time as the case was brought back before the Board.

Mr. Hughes made a motion to defer case W-15-00 per the applicants request until such time as the applicant requests the Board to consider the case at a future Board meeting.

The motion was approved by a 3-0 vote.

2. W-20-00: Michael & Sharon Rodgers - 99 Shellbank Drive

Mr. Mike Woolson presented the case stating that Mr. Daniel Winall of Water's Edge Construction, on behalf of the owners, Michael and Sharon Rodgers, had applied for a wetlands permit to install 110 linear feet of riprap revetment wall and stone spur for shoreline stabilization and construct a 32-foot pier at 99 Shellbank Drive in the First Colony subdivision. The property is further identified as parcel (2-17) found on the James City County Real Estate Tax Map (45-3).

The property in question is along the James River. Environmental Division staff visited the site along with representatives from VMRC and VIMS on June 16, 2000. The riprap revetment wall will repair existing erosion behind a failing bulkhead. The bulkhead will be removed, except for a 10 to a 20-foot portion adjacent to the Levin property. The riprap spur will extend from the proposed revetment wall to the existing southeastern corner of the bulkhead. The purpose of the spur is to protect the Rylands shoreline after the existing bulkhead is removed. It is estimated that approximately 560 square feet of Type XV, Sand/Mud Flat Community will be permanently impacted by this application request. Significant adverse impacts to adjacent properties are not anticipated by this proposal.

It is the staff's recommendation that this application be approved with the following conditions:

1. Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
2. The landward areas of the Resource Protection Area (RPA) buffer that are proposed to be cleared and graded will require mitigation, replanting with native vegetation consisting of trees, shrubs and ground cover. An RPA replanting plan shall be submitted and approved by the Environmental Division prior to the preconstruction meeting.
3. All vegetation requiring removal for this project shall be approved by the Environmental Division prior to any disturbance. Care must be taken at the common property between the Rodgers and the Rylands to not disturb existing trees or tree roots to the maximum extent practicable.
4. A turbidity curtain will be required along those portions of the project that will have the existing bulkhead and/or upland fill removed.
5. All riprap used shall be a minimum of Class II Stone.
6. All filter fabric used shall be inspected by the Environmental Division prior to placement of riprap.
7. A JCC Land Disturbance permit will be required and must be obtained by the landowner for all of the proposed landward grading and earth moving operations due to the extent of the proposed grading. This permit shall be obtained prior to the preconstruction meeting.
8. A physical barrier shall be erected on the common property line between the Rodgers and the Rylands to make sure that all work performed does not encroach upon the Rylands property.

9. The permit shall expire November 8, 2001.
10. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to the permit expiration date.

Mr. Lindsey referred to condition #8 and asked what type of physical barrier would be used.

Mr. Woolson responded that a temporary fence made of 2x4s could be used. The intent of the condition is to ensure that whatever type of barrier used will protect the Rylands property.

Mr. Lindsey informed the Board that he had talked to Mrs. Rogers, who informed him that all disagreements with the Rylands, adjacent property owners, had been resolved.

Mr. Hughes inquired if the bulkhead could be repaired without a wetlands permit.

Mr. Woolson responded that a repair would not require a permit.

In response to a question from Mr. Waltrip, Mr. Cook stated that the normal practice is to replace vegetation disturbed in an RPA buffer with like vegetation, with the emphasis of restoring it to its natural state. However, the County does not encourage using grass buffers as the chemicals used to maintain the grass will wash into the river. The intent of the buffer is to prevent chemicals from washing into the river.

Mr. Lindsey opened the public hearing.

- A. Mr. Daniel Winall, Water's Edge Construction, informed the Board that he would answer any questions that they had.

Mr. Lindsey asked Mr. Winall if he knew if the Rogers and the Rylands had worked out their disagreements.

Mr. Winall stated that he had spoken to Mr. Ryland and he was in agreement with the project.

In response to a question from Mr. Winall relating to the replanting plan, Mr. Woolson responded that a replanting plan needed to be submitted by the landowner and the Environmental Division would need to approve the plan. The landowner would be responsible to complete the replanting, not Mr. Winall.

As no one else wished to speak, Mr. Lindsey closed the public hearing.

Mr. Hughes made a motion to approve case W-20-00 with staff's recommendations.

The motion was approved by a 3-0 vote.

3. W-32-00: Stephen Levin - 101 & 103 Shellbank Drive

Mr. Mike Woolson presented the case stating that Mr. Daniel Winall of Water's Edge Construction, on behalf of the owner, Mr. Stephen Levin, had applied for a wetlands permit to install 200 linear feet of riprap revetment wall in front of an existing bulkhead. The property is further identified as parcels (2-15) and (2-16) found on the James City County Real Estate Tax Map (45-3).

The property in question is along the James River. Environmental Division staff visited the site along with representatives from VMRC and VIMS on October 20, 2000. The riprap revetment wall and backfill will repair existing erosion behind the failing bulkhead. It is estimated that approximately 445 square feet of Type XV, Sand/Mud Flat Community will be permanently filled and impacted by this application request. Significant adverse impacts to adjacent properties are not anticipated by this proposal.

It is the staff's recommendation that this application be approved with the following conditions:

1. Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
2. The landward areas of the Resource Protection Area (RPA) buffer that are proposed to be cleared and graded will require mitigation, replanting with native vegetation consisting of trees, shrubs and ground cover. An RPA replanting plan shall be submitted and approved by the Environmental Division prior to the preconstruction meeting.
3. All vegetation requiring removal for this project shall be approved by the Environmental Division prior to any disturbance.
4. All riprap used shall be a minimum of Class II Stone.
5. All filter fabric used shall be inspected by the Environmental Division prior to placement of riprap.
6. A JCC Land Disturbance permit will be required and must be obtained by the landowner for all of the proposed landward grading and earth moving operations due to the extent of the proposed grading. This permit shall be obtained prior to the preconstruction meeting.
7. The permit shall expire November 8, 2001.
8. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to the permit expiration date.

Mr. Lindsey asked about the two different signatures on the application; Eugene and Stephen Levin.

Mr. Hughes asked about the exposed rocks showing in the picture.

Mr. Lindsey opened the public hearing.

- A. Mr. Daniel Winall, Water's Edge Construction, responded that at normal low tide the rocks do not show, however this past month the tides had been lower than normal and that is why the rocks were visible. He also stated that Eugene gave this property to his son, Stephen, and the property is in a trust fund. He then stated that Joan Etchberger, staff, verified that information. He stated that VIMS had not indicated any problems with the paperwork.

Mr. Waltrip asked Mr. Winall how he would access the site.

Mr. Winnall responded that he would use the Rogers property. He informed the Board that the vegetation on top of the hill would remain and that he would only disturb approximately 20 feet behind the bulkhead.

As no one else wished to speak, Mr. Lindsey closed the public hearing.

The Board raised questions relating to the disturbance of vegetation in an RPA buffer while repairing bulkheads. The question would be whether the County would require the area to go back to its natural state or to go back to the way it was prior to the repair. Another issue to be addressed would be if the repair was done right after the damage, or if the applicant waited and vegetation grew up prior to the repair. The Board agreed that they needed good sense discretionary abilities to make good decisions.

Mr. Cook stated he would research the issue and report back to the Board.

Mr. Hughes made a motion to approve case W-32-00 with staff's recommendations.

The motion was approved by a 3-0 vote.

E. BOARD CONSIDERATIONS

1. Extension of W-25-98: Bush Neck Farms, Inc. - 1502 Bush Neck Road

Mr. Darryl Cook presented the case stating that Mr. David Brown, of 1502 Bush Neck Road, had requested an extension of the expiration date for W-25-98. Subsequent to the receipt of Mr. Brown's request, the Environmental Division had authorized approval of the permit expiration date to November 4, 2001. All of the permit conditions required within W-25-98 apply to the permit extension.

The authorization of the wetlands permit extension by the Environmental Division is subject to review and confirmation by the Wetlands Board at this meeting. Mr. Cook informed the Board that all the wetlands work had been completed, however the stormwater management controls had not been completed nor the final inspection conducted.

Mr. Lindsey inquired how the mitigation on the cypress trees was working.

Mr. Cook stated he would check on the status and report back to the Board.

Mr. Waltrip made a motion to approve the extension on case W-25-98.

The motion was approved by a 3-0 vote.

F. MATTERS OF SPECIAL PRIVILEGE

ELECTION OF OFFICERS FOR YEAR 2001

Mr. Hughes moved that Henry Lindsey be re-appointed as Chairman.

Mr. Lindsey moved that John Hughes be re-appointed as Vice-Chairman.

Mr. Hughes moved that Darryl Cook be re-appointed as Secretary.

All motions on elections were approved by a 3-0 vote.

The Board held a short discussion on RPA violations and civil penalties. Mr. Cook explained that the Board of Supervisors determines the civil charge amount and if the parties cannot come to an agreement then the issue would be taken to the Court, where a civil penalty could be assessed by the Court.

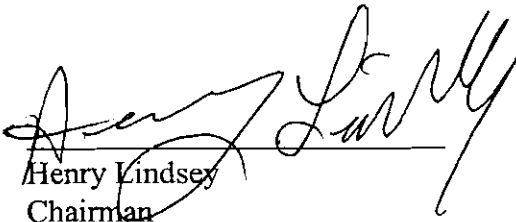
Mr. Cook informed the Board that staff was changing the cutoff dates on wetland applications. The present process does not allow staff enough time to evaluate the completeness of the application prior to its being advertised. By making the changes staff hopes to provide the Board with more accurate and complete applications for their consideration. Mr. Cook stated letters would be sent out to contractors notifying them of the schedule changes.

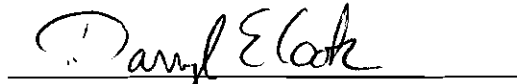
G. ADJOURNMENT

Mr. Hughes made a motion to adjourn.

The motion was approved by a 3-0 vote.

The meeting was adjourned at 8:05 PM.


Henry Lindsey
Chairman


Darryl E. Cook
Secretary