

**WETLANDS BOARD
MINUTES**

MAY 9, 2001 - 7:00PM

A. ROLL CALL ABSENT

Henry Lindsey
John Hughes
David Gussman
Larry Waltrip
Philip Duffy

OTHERS PRESENT

Darryl E. Cook, Secretary to the Board
Ben Stagg, VMRC
Environmental Staff

B. MINUTES

Approval of the April 23, 2001 minutes were approved as presented.

C. OLD BUSINESS - None

D. NEW BUSINESS

1. W-4-01: Wayne Carter - 4123 South Riverside Drive

Mr. Gerald Lewis presented the case stating that Mr. Wayne Carter had applied for a wetlands permit for replacement of a failing bulkhead with a combination of bulkhead and riprap structure replacement located on the Chickahominy River. The property is further identified as parcel (9-11) found on James City County Real Estate Tax Map (19-1).

This permit application proposes the removal of the existing concrete block bulkhead and replacing this bulkhead with a combination of 65 linear feet of new vinyl bulkhead and protecting the balance of the shoreline on the property with riprap revetment. The existing concrete block bulkhead structure will be removed and its replacement installed in the same location. There will be 145 sq. ft. of wetlands filled consisting of 125 sq. ft. of sand/mud mixed flat community (Type XV) and 20 sq. ft. of Arrow Arum-pickerel Weed Community (Type VII), and 125 sq. ft. of sand/mud mixed flat community (Type XV) impacted by this application.

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

- 1) The Environmental Division shall be notified prior to commencing the work.

- 2) A preconstruction conference shall be held on site prior to commencing work.
- 3) A Turbidity Curtain shall be installed along the entire length of the project prior to any work being done.
- 4) Any land disturbance must be stabilized after structures are in place with seeding and mulching.
- 5) The permit shall expire May 9, 2002.
- 6) 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 expiration date.

Mr. Duffy inquired if the boat ramp was on this property. He felt that it was important to know where the property line was in order to protect the adjacent property owner's rights.

Mr. Lindsey advised Mr. Duffy that the Board's role was to evaluate the project as proposed on the application and not evaluate ownership issues.

The Board held a short discussion on how difficult it was to determine the location of project impacts on site visits. They requested staff in future cases to ensure that some sort of marking is in place indicating where the project impacts will be to aid the Board in reviewing each case.

The Board also requested staff have detailed photos available at each Board meeting for future cases.

Mr. Lindsey opened the public hearing.

A. Mr. Wayne Carter, owner of 4123 South Riverside Drive, addressed the Board. He informed them the boat ramp was not on his property and indicated where the property line was. He stated the purpose of the riprap was to preserve the bulkhead.

Mr. Duffy inquired as to why there appeared to be no erosion on the adjacent property owned by Chickahominy Marina.

Mr. Carter explained that a channel entered at that point. He stated that if there were no erosion on his property, he would not submit this proposal. He bought the property approximately six months ago and the existing bulkhead appeared to have been there for many years.

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

Mr. Gussman made a motion to approve case W-4-01 with staff's recommendations.

The motion was approved by a 5-0 vote.

2. W-7-01: George White - 111 Shellbank Drive

This case was presented with W-8-01 as they are adjacent lots and are a joint project.

3. W-8-01: Roger Guernsey - 113 Shellbank Drive

Ms. Beth Davis presented case W-7-01 and W-8-01 together as they are a joint project, to be completed simultaneously. Ms. Davis informed the Board that Mr. George White and Mr. Roger Guernsey had applied for wetlands permits to install breakwaters and beach nourishment in front of existing bulkheads. The properties are further identified as parcels (2-9) and (2-8) found on the James City County Real Estate Tax Map (45-3).

The properties in question are along the James River. Environmental Division staff visited the sites along with representatives from VMRC and VIMS on April 23, 2001. The breakwaters and beach nourishment will result in a net gain of wetlands in front of the failing bulkheads. It is estimated that approximately 400 square feet of Type XIII; Intertidal Beach Community will be permanently filled and 2,000 square feet of sand beach restored by this application request.

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

- 1) Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
- 2) The Environmental Division shall be notified prior to commencing the work.
- 3) A Turbidity Curtain shall be installed along the entire length of the project prior to any work being done.
- 4) The areas planted with wetland vegetation shall be monitored for two growing seasons to ensure survival of the vegetation and surety shall be submitted to the Environmental Division prior to the preconstruction meeting.
- 5) The landward areas of the Resource Protection Area (RPA) buffer that are proposed to be cleared and graded will require restoration with native vegetation consisting of trees, shrubs and ground cover. An RPA restoration plan with surety shall be submitted and approved by the Environmental Division prior to the preconstruction meeting.
- 6) All vegetation requiring removal for this project shall be approved by the Environmental Division prior to any disturbance.
- 7) The permits shall expire May 9, 2002.
- 8) If an extension of these permits is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to the permit expiration date.

Mr. Hughes verified that most of the proposed project was located outside of the Board's jurisdiction.

Mr. Lindsey did point out that the beach nourishment would actually create more wetlands, which would place more of the project under the Board's jurisdiction. Mr. Lindsey asked if the surety amount had been established. He also noted that there was a discrepancy in the joint application, which

indicated the beach fill to be 75% sand and the VIMS report of 95% sand. He also asked if Mr. Howard's question had been addressed relating to how this project will impact the water depth at the end of his pier.

Ms. Davis responded that the surety had not been determined. She stated that 95% sand is the recommendation and that staff had not addressed Mr. Howard's question.

Mr. Duffy inquired why the applicant proposed such a large project when he felt a smaller proposal, such as using riprap, would be sufficient.

Mr. Lindsey advised Mr. Duffy that the Board could only evaluate the merits of the proposed project based on the application submitted.

Mr. Lindsey opened the public hearing.

A. Mr. Roger Guernsey, owner of 113 Shellbank Woods, and Mr. Chris Clifford, agent and contractor for both sites, addressed the Board together.

Mr. Guernsey informed the Board that the proposed project was the result of obtaining input from VIMS, Jim Gunn (who is a well known contractor of Coastal Design and Construction), and Chris Clifford, his contractor, who are all professionals in this line of work. He stated that this proposal meets his needs for recreational use, as well as will prevent erosion along the shoreline. He did say he would not mow the area designated as an RPA area.

Mr. Clifford stated that he believes marshes existed in this area many years ago prior to the erosion and this project will establish wetlands back in the area. He stated that he had installed Mr. Howard's pier and the water depth would not be impacted. He informed the Board that he would discuss this issue with Mr. Howard and alleviate his concerns. Mr. Clifford stated that the breakwater being installed for Mr. White would stop the storm flow and the breakwater being installed for Mr. Guernsey will stop the summertime squalls.

Mr. Clifford requested the Board and staff to be flexible on the surety amount. He stated that there are many changing elements that can cause plantings to either flourish or fail. It will take approximately two years for the plantings to establish themselves. He said the intent is to create wetlands, however the species and the quantity can change from the proposed plan.

Mr. Duffy inquired if there would be fuel, lighting, structures, or storage at the end of the pier.

Mr. Clifford informed Mr. Duffy that the end of the pier was outside of the Board's jurisdiction.

Mr. Duffy responded that he did not need instruction from Mr. Clifford on the jurisdiction of the Wetland Board, and further, since the head of the pier was located within the Board's jurisdiction the Board has the authority to approve or disapprove the pier.

Mr. Guernsey responded that there would be no hazardous materials at the end of the pier.

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

The Board held a short discussion relating to the possibility that projects could be approved with conditions, such as beach nourishment, that may not be completed. They want to know if surety could be used in those cases or if a civil penalty could be imposed.

Mr. Cook responded that the surety is based on the cost of plantings and not on job completion. At the present time there is no method in place to penalize for not completing a wetlands project.

Mr. Ben Stagg, VMRC, stated that there is nothing in the joint permit application that requires the job to be completed. He also stated that breakwaters could work correctly without beach nourishment.

Mr. Gussman made a motion to approve case W-7-01 and W-8-01 with staff's recommendations.

The motion was approved by a 5-0 vote.

E. MATTERS OF SPECIAL PRIVILEGE

Mr. Duffy inquired if the Board could get identifying badges to show people who they are while conducting site visits.

Mr. Cook asked for guidance from the Board as to what they wanted staff to identify in the field for site visits. He also asked for guidance as to when the Board felt a single vs. joint permit application was necessary.

The Board agreed that the project limits and the changes in proposed shore improvement features would need to be marked in the field. They also agreed that staff should review the applications and make the determination based on whether the project is incidental encroachment of a few feet or a much larger encroachment.

Mr. Menichino, staff, suggested the Board call staff prior to the Board meeting if they had questions relating to Board cases. This would enable staff to be prepared to address those questions.

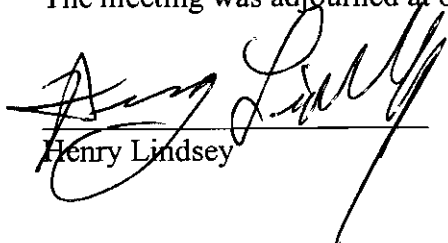
The Board agreed they would call staff if they had questions relating to board cases prior to the Board meeting.

F. ADJOURNMENT

Mr. Duffy made a motion to adjourn.

The motion was approved by a 5-0 vote.

The meeting was adjourned at 8:15 PM.


Henry Lindsey


Darryl E. Cook