

**WETLANDS BOARD  
MINUTES**

**JULY 11, 2001 - 7:00PM**

**A. ROLL CALL ABSENT**

Henry Lindsey	none
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 May 9, 2001 minutes were approved with a correction.

**C. OLD BUSINESS - None**

**D. NEW BUSINESS**

**1. W-10-01: James W. Bailey, III - 3058 North Riverside Drive**

Mr. Gerry Lewis presented the case stating that Mr. James Bailey and his wife Sharon had applied for a wetlands permit to install 77lf of bulkhead in front of an existing bulkhead, on their property located at 3058 N. Riverside Drive further identified as parcel (19-1) found on the James City County Real Estate Tax Map (2-37).

The property in question is along the Chickahominy River. Environmental Division staff visited the site along with a representative from VMRC on June 15, 2001. A site visit by VIMS representatives was conducted on June 19, 2001. Also prior to the official staff visit to the site, he and Mr. Henry Lindsey conducted a courtesy visit at the request of Mr. Bailey. The purpose of this visit was to evaluate with the owner alternate locations of the bulkhead and discuss the permitting issues involved with those alternatives. The bulkhead location that appears on this application has been moved significantly landward from the owner's original proposal reducing the impact to the wetlands. The installation of the new bulkhead will result in a loss of wetlands in front of the existing bulkhead estimated at 280 square feet comprised of Freshwater Mixed Community (Type XI), and Sand / Mud Mixed Flat Community (Type XV).

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

1. A preconstruction meeting will be held onsite prior to the commencement of work.
2. Any land disturbing activity landward of the proposed bulkhead that is within the Resource Protection Area (RPA) will require an additional review and approval from the Environmental Division. An RPA restoration plan with surety will also be required, submitted and approved by the Environmental Division prior to the preconstruction meeting.
3. A Turbidity Curtain shall be installed prior to the commencement of work. The Environmental Division may waive the requirement for the turbidity curtain based on the sequence of construction and the filling operations proposed by the contractor.
4. All vegetation requiring removal for this project shall be approved by the Environmental Division prior to any disturbance.
5. The installation of the tiebacks and filter cloth shall be inspected by the Environmental Division prior to backfilling.
6. The permit shall expire July 11, 2002.
7. 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.

The board held a short discussion of the lack of understanding by the professional community as to the function of cypress knees in a wetlands environment. They also discussed the possibility of realigning a section of the bulkhead and the detriments of leaving the pine tree stump.

Mr. Lindsey opened the public hearing.

A. Mr. James Bailey, owner, 3058 North Riverside Drive, addressed the Board. He stated the intent of this project would be to stabilize the bank and to prevent further erosion of his property. He stated the proposed alignment would be the most effective to handle the water flow at that location and to prevent erosion. He did say that the pine tree was leaning towards his house and that he would be taking the tree down, to include removing the stump. He also stated that he would be hiring a contractor to perform the work. Mr. Bailey stated that he had met with the Army Corps of Engineers, as they were concerned his original proposal reclaimed too much land. He revised his plan and resubmitted and they are satisfied with the revised proposal. Mr. Bailey requested the Board approve his permit.

In response to a question from Mr. Duffy, Mr. Bailey stated that he would use the existing concrete riprap as fill, only if it did not contain reinforcing steel.

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

In response to a question from Mr. Lindsey, Mr. Lewis responded that he felt this proposal was the most practical. He stated that the integrity of the wall depended a great deal on the tie-ins. He stated as proposed it has good tie-ins, however if it were moved, you could not be certain if it would have good tie-ins.

Mr. Duffy made a motion to approve case W-10-01 with staff's recommendations.

The motion was approved by a 5-0 vote.

## **E. MATTERS OF SPECIAL PRIVILEGE**

### **1. Extension of W-7-00: Hope D. Beck – 6425 Conservancy**

Mr. Pat Menichino presented the case stating that Mr. Daniel Winall, Water's Edge construction, on behalf of the owner Hope D. Beck, had requested an extension of the expiration date on this permit. The Environmental Division authorized the approval for the permit extension from June 14, 2001 to a revised expiration date of June 14, 2002. All of the original permit conditions required with the original permit apply to this permit extension. They are as follows:

- 1) Prior to any work activities, a preconstruction meeting will be held on-site.
- 2) The revetment installation location shown on the drawings submitted may require adjustments in order to minimize the impacts to the Wetlands. The proposed location of the revetment will be reviewed, verified and adjusted by the contractor at the direction of Environmental Division staff during the preconstruction meeting.
- 3) The Environmental Division shall inspect filter fabric installation, prior to placement of the Riprap.
- 4) The Environmental Division requires the Riprap to be Class1 for use in the revetment.
- 5) Any upslope-disturbed areas shall be stabilized with grass.
- 6) The permit shall expire June 14, 2002.
- 7) 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. Menichino informed the Board that the project would be completed within the next two weeks.

Mr. Hughes made a motion to approve the extension on case W-7-00.

The motion was approved by a 5-0 vote.

**2. Discussion on Permit Conditions for W-17-98: First Colony Civic Association-First Colony Beach**

Mr. Cook presented the case stating that the Greater First Colony Area Civic Association (GFCACA) was issued a wetlands permit on February 10, 1999, to perform beach nourishment, sand replenishment and groin placement located at the First Colony beach, 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.

To more fully describe the situation, the permit was issued to extend the existing groin on the west side of the beach, add a breakwater on the east side, provide beach nourishment between the two structures, and plant *Spartina patens* on the beach and adjacent to the breakwaters.

At the request of GFCACA, the permit was extended by the Wetlands Board for one year in February 2000, and it expired on February 10, 2001. A letter was received from the GFCACA on June 4, 2001, requesting release of their surety instrument (bond) for the project, as they do not have the funds to complete the project. The status of the project is that 150 cubic yards of sand were placed at the beach in March 2000, but no other aspects of the project have been completed including the wetland plantings.

A letter dated August 4, 1999, written by the Army Corps of Engineers regarding this project stipulated that only 150 cubic yards of sand could be placed on the beach without constructing any additional stone structures. It also stated that when the stone structures are constructed, 150 square feet of marsh grasses, *Spartina patens*, must be planted as compensation for the marsh vegetation that will be permanently destroyed by the filling. Therefore, as the amount of sand replenishment has not exceeded the amount necessary to require construction of the stone structures, the 150 square feet of marsh grasses do not need to be planted.

There is a one-foot high sand dune that was to be constructed adjacent to the existing bulkhead and stabilized with *Spartina patens*. Review of the permit documents and conversations with GFCACA representatives indicate that the purpose of the dune is to protect the loss of sand into the parking lot. It was not a requirement stipulated by the wetlands permits issued by the regulatory agencies involved.

It is the staff's recommendation that the project be closed out following modification of the permit to delete reference to the construction of the groin and breakwaters. This can occur at the next meeting of the Wetlands Board.

Mr. Cook informed the Board that as the permit was being significantly modified from what was originally permitted, a public hearing would need to be held at the Board's next meeting. He stated that even though the permit expired February 10, 2001, the County Attorney said it would be legal to modify it, as long as a public hearing was held.

Mr. Lindsey acknowledged Mr. Richard Jones from the audience.

Mr. Richard Jones, Treasurer, Greater First Colony Area Civic Association, addressed the Board. He stated that due to other financial obligations of the Association, the remainder of the original project could not be done. He stated that one of the other projects to be done was the dredging of silt from the marina.

The Board informed Mr. Jones that the Association would need to apply for a permit prior to dredging the marina or adding additional sand to the beach.

Mr. Hughes stated that if the Powhatan Creek Study had been completed and received by staff he would like a copy of it.

Mr. Cook responded that a draft had just been received and staff would need to review it prior to it being available in final form to the public.

Mr. Hughes inquired if a permit had been issued for the outfall in the tidal creek in the Landfall subdivision.

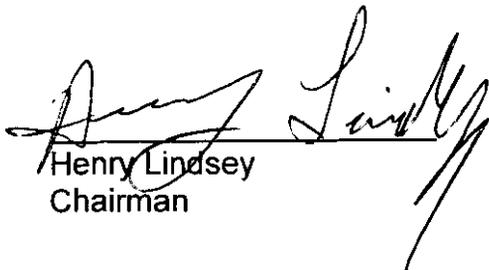
Mr. Cook stated that there were different types of outfalls installed in the Landfall subdivision and that he would investigate the matter to see if a permit was required, and if it was, then the possibility of an after-the-fact permit.

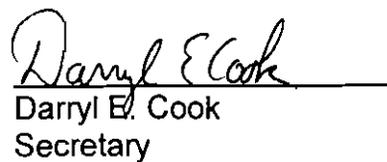
**F. ADJOURNMENT**

Mr. Hughes made a motion to adjourn.

The motion was approved by a 5-0 vote.

The meeting was adjourned at 8:00 PM.

  
Henry Lindsey  
Chairman

  
Darryl E. Cook  
Secretary