

**JAMES CITY COUNTY WETLANDS BOARD
MINUTES
JANUARY 21, 2004 - 7:00PM**

A. ROLL CALL

ABSENT

Henry Lindsey
William Apperson
David Gussman
Larry Waltrip

Philip Duffy

OTHERS PRESENT

Ben Stagg, VMRC
Environmental Staff

B. MINUTES – November 12, 2003

The November 12, 2003 minutes were approved as presented.

C. OLD BUSINESS - None

D. PUBLIC HEARINGS

1. W-33-03: Busch Shoreline Maintenance and Stabilization – Kingsmill Resort

Mr. Darryl Cook presented the case stating that Mr. William Voliva, on behalf of Kingsmill Resort, had applied for a wetlands permit to conduct a shoreline maintenance and stabilization project along the James River in the Kingsmill Resort to repair damage resulting from Hurricane Isabel. Jim Gunn of Coastal Design and Construction has been contracted for the project. The property is found on James City County Real Estate Tax Maps (50-3) and (50-4). The project site is located immediately west or upriver from the Pettus Plantation site which is adjacent to the Kingsmill Marina. Work will begin at the upstream end of the shoreline stabilization project authorized by Wetlands Permit W-4-98.

That project authorized 810 linear feet of riprap revetment for shoreline stabilization in the area of Pettus Plantation and the marina. An additional shoreline stabilization project was authorized by Wetlands Permit W-20-97. That project protected with similar breakwaters, spurs, and revetments as this proposal the first 3000 linear feet of the Kingsmill shoreline as measured from the eastern or downriver end of the property up to the marina where W-4-98 ended. This project would complete the protection of the shoreline from the eastern end of the property upriver for approximately 6800 linear feet. The project would end just upstream of the end of the 17th fairway of the River Course golf course.

The shoreline along this site consists of steep slopes and bluffs, which vary widely in height above the bank, protected at the toe by a concrete rubble revetment. The revetment was damaged by the high storm surge during Isabel resulting in severe erosion to the slopes.

Within the tidal/subaqueous areas, the project proposes to replace the existing failed and failing concrete revetment with 2725 liner feet of armor stone revetment, the installation of two riprap spurs (70 and 50 feet in size), two 100- foot long breakwaters to promote shoreline stability within two separate embayments, and 3000 square-feet of intertidal and backshore plantings. In the adjacent upland areas, the project proposes to repair the major bank failures by regrading of slopes, filling with soil and topsoil, and stabilizing disturbed areas with the erosion control blankets and vegetation.

Environmental Division staff visited the site on December 18, 2003, along with representatives of VMRC, VIMS, DEQ, and the Army Corps of Engineers to discuss the project scope and potential impacts. Proposed impacts for the project are determined to be 1340 square feet to the non-vegetated, Type XV, Sand/Mud Mixed Flat Community wetlands for the spurs and the breakwaters, and 17,475 square-feet of intertidal, broken concrete, non-vegetated wetlands for the revetment construction, which is within the current revetment footprint. Total fill impacts are determined to be 670 square feet; fill in the revetment areas will be unchanged. According to the James City County Wetlands Mitigation Policy, commercial projects are to mitigate for all tidal wetlands losses. The applicant proposes to mitigate for the filling of 670 square feet of wetlands for the spurs and breakwaters by planting approximately 3000 square-feet of intertidal and backshore areas with bald cypress trees, *Spartina patens*, *Spartina alterniflora*, and *Scirpus americanus*. There will also be a temporary impact to 1660 square feet of vegetated, nontidal wetlands for access purposes that will be restored and revegetated after completion of the project with *Carex* and *Spartina patens* plants.

Staff recommends a wetlands permit be granted for this project, with the following conditions:

1. Prior to any land disturbing activities, a preconstruction meeting will be held onsite between the developer, contractor and the Environmental Division.
2. All work shall be in accordance with the project documents titled "Kingsmill Shoreline Maintenance and Stabilization Project" dated November, 2003.
3. A land disturbing permit shall be obtained and remain in place for the project duration for all upslope clearing and grading above the jurisdictional wetlands.
4. A turbidity curtain is to be in place along the entirety of the project prior to any construction.
5. The toe of the revetment shall be buried a minimum 2.0' below MLW.
6. Limits of clearing and grading shall be marked in the field prior to the preconstruction meeting.
7. A plan for revegetation of all disturbed areas shall be submitted to and approved by the County prior to construction. All vegetation for mitigation of the wetlands and Resource Protection Area impacts shall be guaranteed with surety.

8. No bald cypress trees are to be removed for the revetment installation.
9. This permit shall expire January 21, 2005.
10. If an extension of this permit is required, a written request shall be submitted to the Environmental Division no later than two weeks prior to the permit expiration date.

Mr. Lindsey opened the public hearing.

Mr. Gussman asked questions relating to the mitigation plantings.

Mr. Cook responded that specifics on the plantings would be made part of the Chesapeake Bay Restoration Agreement. He also stated that surety would not be released until the plantings were established.

A. Mr. Jim Gunn, Coastal Design & Construction and project contractor, addressed the Board. He asked the Board to consider modifying condition No. 4 to require the turbidity curtain be used in all active working areas and not the entire project site.

The Board and staff agreed that could be changed.

Mr. Gunn then asked if condition No. 5 could be changed to allow the toe of the revetment be buried a minimum of 1.0' below MLW and not 2.0'. He stated it was a hard-shallow bottom and he had dug 1.5' into rubble and was comfortable that it would be stabilized at 1.0' with no wash.

Mr. Cook responded the 2.0' recommendation came from the State Handbook and VIMS. He said the general recommendation is 2.0', however this is a specific case that the issue could be reviewed.

Mr. Waltrip stated he was comfortable with 1.0'.

B. Mr. R. Neville Reynolds, Vanasse Hangen Brustlin, Inc. and agent for the owner, addressed the Board and stated he supported Mr. Gunn's request.

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

Mr. Gussman made a motion to approve case W-33-03 with staff's recommendations and revision to condition No. 4 to have a turbidity curtain be in place along all active areas of the project prior to any construction and to condition No. 5 to allow a minimum of 1.0' below MLW.

The motion was approved by a 4-0 vote.

2. W-46-03: Mr. John Finger – 128 & 129 Four Mile Tree

Mr. Jim Rudnicky presented the case stating that Mr. John Finger had applied for a wetlands permit to install approximately 380 feet of marsh toe stabilization to prevent future erosion. The property is further identified as parcels (5-13 and 5-14) found on the James City County Real Estate Tax Map (16-4). The project site in question is located on the York River. Mr. Finger has contracted with Mr. Stephen Fisher of Woodchuck Marine Structures to design and construct the project. Mr. Finger and Mr. Fisher have been advised that their attendance at the Wetland Board meeting on January 21, 2004 was highly recommended.

This project will involve the construction of 380 linear feet of marsh toe stabilization to protect a non-vegetated mud flat that had eroded from Hurricane Isabel. The structure will be constructed using class 1 riprap, 50 to 150 pounds per piece, with filter fabric between the stone and soil. Access to site will be on an old logging road. In addition to the marsh toe stabilization, a retaining wall is going to be constructed on the site. This wall is located in an upland area outside of the Wetland's Board jurisdiction and will require a Land Disturbing Permit before work can commence.

Environmental Division staff visited the site on December 18, 2003, along with representatives from VMRC and VIMS to discuss the project scope and potential impacts. It has been determined that there will be 1140 sq. ft. of impacts and 570 sq. ft. of fill placed in the Type XV Sand/Mud Mixed Flat Community.

It is the staff's recommendation that the Board approve this application, with the following conditions:

1. Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
2. The limits of construction shall be flagged in the field prior to the preconstruction meeting.
3. All vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting.
4. Any landward areas of the Resource Protection Area (RPA) buffer that are proposed to be cleared and disturbed during the construction process will require restoration with native vegetation consisting of trees, shrubs and ground cover. All vegetation removed for construction access will require an RPA restoration plan, with surety, to be submitted and approved by the Environmental Division prior to the preconstruction meeting.
5. All vegetation to be removed for this project shall be approved by the Environmental Division prior to any land disturbance.
6. A turbidity curtain shall be required prior to commencement of any construction activity unless waived by the Environmental Division Director.

7. All core and armor stone used shall be class 1 riprap weighing between 50 and 150 pounds per piece.
8. Filter fabric shall be inspected by the Environmental Division prior to the placement of riprap.
9. The permit shall expire January 21, 2005.
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 expiration date.

Mr. Lindsey opened the public hearing.

A. Mr. Steve Fisher, Woodchuck Marine Structures and contractor, addressed the Board. He presented the Board with a picture of the site and explained the history of the erosion problems in that area. He said Mr. Finger's desire was to save his property from further erosion. He then requested the Board consider modifying condition No. 7 to allow him to use the next class of riprap as he felt 150 pounds was heavier than conditions warranted. He also wanted to eliminate placing the toe of the revetment 2.0' below MLW. However, he said he would do whatever the Board directed him to do.

The Board held a short discussion and decided the bottom sediment was too soft to waive burying the toe of the revetment 2.0' below MLW. Unlike the project heard before this one in which rubble was present, here it was just hard sand. They also decided that there was too much wash in the area to waive the heavier stone, as it would be needed to stabilize the project.

Mr. Fisher asked the Board if the spoils from digging the 2.0' below MLW could be used to stabilize the trees on the bank.

Mr. Apperson, who is also a State Forester, responded that in his opinion if the trees were undermined now they would not survive. He stated there would not be a problem using the silt, however the salt would affect the trees and would kill them. Either way he felt the trees were already dead.

Mr. Fisher added that he would burlap the silt in place and then seed. He planned to work the project in March and would do everything at one time to include the retaining wall and the toe stabilization.

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

Mr. Gussman thanked Mr. Finger, the owner, for coming to the meeting.

Mr. Gussman made a motion to approve case W-46-03 with staff's recommendations.

The motion was approved by a 4-0 vote.

E. BOARD CONSIDERATIONS

1. Presentation by Chesapeake Bay Local Assistance Department Staff regarding Exception Process

Mr. Cook informed the Board that the Board of Supervisors had approved revisions to the JCC Chesapeake Bay Act Ordinance, which brought the ordinance into compliance with State regulations. The Board of Supervisors had appointed the Wetlands Board to serve as the Chesapeake Bay Board. He introduced Mr. Brad Belo, Environmental Specialist, Chesapeake Bay Local Assistance Department, to give the Board a brief overview of their responsibilities as the Chesapeake Bay Board.

Mr. Belo addressed the Board and gave them a slide presentation on the Bay Act Program Exceptions. He then handed Board members a packet of information for their review.

Mr. Waltrip asked if there was a liability issue involved with the Board's decision.

Mr. Belo stated that would be a question for the County Attorney to address, however he did not feel it should be an issue as long as the Board remained consistent with the decisions.

F. MATTERS OF SPECIAL PRIVILEGE

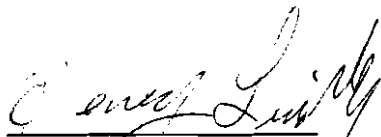
Mr. Lindsey stated that the Board of Supervisors had presented him with a commendation award to the Wetlands Board. It was suggested that it be framed and presented to the Chairman of the Board, Mr. Lindsey.

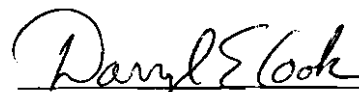
Mr. Waltrip inquired if staff had the information he requested from an earlier meeting about the elevation of the proposed bridge crossing to Jamestown Island.

Mr. Cook stated he did not but he would have it available at the next meeting.

G. ADJOURNMENT

The meeting was adjourned at 8:25 PM.


Henry Lindsey
Chairman


Darryl E. Cook
Secretary