

**JAMES CITY COUNTY WETLANDS BOARD
MINUTES
MAY 12, 2004 - 7:00PM**

A. ROLL CALL

ABSENT

Henry Lindsey
David Gussman
William Apperson
Philip Duffy
Larry Waltrip

NONE

OTHERS PRESENT

Ben Stagg, VMRC
Environmental Division Staff

B. MINUTES – April 14, 2004

The April 14, 2004 minutes were approved as presented.

C. OLD BUSINESS - None

D. PUBLIC HEARINGS

1. W-16-04: Walter S. Mowry - 10210 Sycamore Landing Road

Mr. Pat Menichino presented the case stating that Mr. W. Scott Mowry had applied for a wetlands permit to construct a 112-foot sill and riprap revetment, along with approximately 122 feet of marsh toe stabilization to prevent future erosion. The property is further identified as parcel (3-11) found on the James City County Real Estate Tax Map (7-2). The project site in question is located on the York River. Mr. Mowry has contracted with Mr. Jeff Watkins, Riverworks, Inc., to design and construct the structures. Mr. Mowry and Mr. Watkins have been advised that their attendance at the Wetlands Board meeting on May 12, 2004 is highly recommended.

This project is located on a lot that has an eroding bank that is about 50-feet tall. Hurricane Isabel damaged the bank resulting in increased erosion. This project is designed to stabilize the bank by installing a riprap revetment and marsh toe stabilization. The revetment will be constructed using class 3 stone, 500 to 1500 pounds per piece, with filter fabric between the stone and soil. The revetment will be placed on a constructed sill. The marsh toe stabilization will be constructed with 25-pound core and 150-pound armor stone over filter fabric. Work at the top of the bank is located in an area outside of the Wetland's Board jurisdiction and is covered by an existing Land Disturbing Permit. Access to the site will be either through Mr. Mowry's property or via barge. No activity will occur on adjacent properties.

Environmental Division staff visited the site on March 18, 2004, along with representatives from VMRC and VIMS to discuss the project scope and potential impacts. It has been determined that there will be a total impact of 2228 sq. ft. (1008 sq. ft. of impact for the revetment and 1220 sq. ft. of impact for the marsh toe). A total of 1618 sq. ft. of fill will be 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 additional erosion control measures deemed necessary by county staff shall be installed by the contractor.
5. Any landward areas of the Resource Protection Area (RPA) buffer that are proposed to be cleared and disturbed during the construction process will require stabilization with native vegetation. A Wetlands mitigation-planting plan for 1,236 sq. ft. shall be submitted and approved by the Environmental Division prior to the preconstruction meeting. Surety shall be provided to guarantee the mitigation plantings. This is consistent with what has occurred on past permits W-23-97, W-08-01 and W-16-01.
6. All vegetation to be removed for this project shall be approved by the Environmental Division prior to any land disturbance.
7. A turbidity curtain shall be required prior to commencement of any construction activity unless waived by the Environmental Division Director.
8. All revetment core stone will be class 1 and armor stone will be class 3.
9. Filter fabric shall be inspected by the Environmental Division prior to the placement of riprap.
10. The permit shall expire May 12, 2005.
11. 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. Jeff Watkins, Riverworks Inc., addressed the Board and stated he would access the site by barge, however, because the site was a shallow flat, he may have to access the site over the edge of the property. He did state that he would not use adjacent properties to access the site.

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

Mr. Gussman made a motion to approve case W-16-04 with staff's recommendations.

The motion was approved by a 5-0 vote.

E. BOARD CONSIDERATIONS - None

F. MATTERS OF SPECIAL PRIVILEGE

Mr. Cook informed the Board that at their June 9 meeting they would consider an application from the National Park Service and the Association for Virginia Antiquities for the construction of a Visitor Center pedestrian footbridge on Jamestown Island. Staff has determined that the project is commercial in nature therefore, is not exempt from being permitted by the local Wetlands Board. However, the applicant feels the project is not commercial and should be exempt, and therefore, would like a determination by the Board.

Chris Frye, Vanasse Hangen Brustlin, Inc.; Sandy Rives, National Park Service; and Jane Jacobs, CA&P addressed the Board. A brief description of the project was given along with a brief overview of the role of

the National Park Service and the Association for Virginia Antiquities, which was explained as being non-profit organizations as all funds collected go back into the park system for restoration projects.

Mr. Duffy responded that he supported these organizations and made a motion to exempt this project by determining it as a non-commercial project and not subject to the local Wetlands Board jurisdiction.

Mr. Cook warned the Board that they would be going against history if they voted in favor of this. He then gave examples of past cases involving non-profit organizations and cited Sec. 22-3 from the James City County Wetlands Code pertaining to permitted uses.

A short discussion was held relating to setting precedence for future projects and possible consequences of a favorable vote.

Mr. Rives informed the Board that he was agreeable to wait until the June 9 meeting for the Board's decision. He did not want to place the Board in a position of setting possible precedence for which they were not prepared.

Mr. Duffy stated he would like a vote on his motion.

Mr. Duffy made a motion to exempt this project by determining it as a non-commercial project and not subject to the local Wetlands Board jurisdiction.

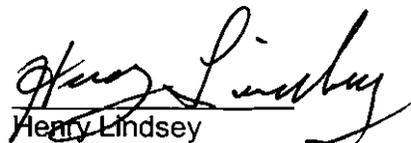
The vote on the motion: AYE: (1) Mr. Duffy; NAY: (4) Mr. Lindsey, Mr. Waltrip, Mr. Apperson, Mr. Gussman.

It was agreed that the case would be considered at the June 9, 2004 Board meeting.

Mr. Menichino introduced Molly Roggero, a new staff member, to the board.

G. ADJOURNMENT

The meeting was adjourned at 7:48 PM.


Henry Lindsey
Chairman

Darryl E. Cook
Secretary