

**JAMES CITY COUNTY WETLANDS BOARD
MINUTES
November 13, 2008 - 7:00PM**

A. ROLL CALL

John Hughes - Chairman
David Gussman
William Apperson
Terence Elkins
Charles Roadley

ABSENT

OTHERS PRESENT

Elizabeth Gallup - VMRC
County Staff

The responsibility of this Board is to carry out locally the Commonwealth policy to preserve the wetlands and to accommodate economic activity so as to prevent their despoliation.

B. MINUTES

The October 8, 2008 Board minutes were approved as written.

The Board observed a moment of silence for the recent passing of Jean Waltrip, wife of Wetlands Vice Chairman, Larry Waltrip.

C. PUBLIC HEARINGS

1. W-10-08 Restoration Hearing for violations at 500 Thompson Lane

Patrick Menichino presented the following history on the case:

On September 10, 2008, the Wetlands Board (the Board) received sworn testimony from staff that unauthorized impacts to jurisdiction wetlands had occurred at 500 Thompson Lane, in James City County. The owner of the property, Mr. Lee Mershon was present at the meeting and was given an opportunity to address the Board on this issue.

Mr. Mershon agreed with the chronology of events and facts in the case and stated he would work with the Wetlands Board and complete a Joint Permit Application (JPA), but he wanted to wait until anticipated changes in the Dam Safety Regulation occurred on September 28, 2008. Once that occurred, he would be able to determine what work would be required to bring the dam into compliance with the new regulations.

On October 30, 2008, the Division received a JPA from VMRC for proposed wetlands impacts associated with filling and grading wetlands adjacent to the dam located at 500 Thomson Lane.

Because this JPA was submitted later than the application deadline, reports from VMRC, VIMS, and other regulatory agencies are not yet available. Therefore, staff could not offer guidance to the Board concerning this JPA.

Staff believes that the applicant must be prepared to provide the Board with evidence showing that the proposed dam improvements and resulting wetlands impacts are:

1. Required by the DCR Dam Safety Division
2. That the impacts are unavoidable
3. That the wetlands impacts are the minimum necessary

In addition, the applicant should be advised that all proposed impacts to vegetated wetlands would require mitigation or compensation as per County requirements.

In light of the above information, Staff recommends that the Board defer action on the Restoration Hearing until December 12, 2008.

Mr. Hughes made a motion to defer case W-10-08 Restoration Hearing to December 10, 2008.

The motion was approved by a 5-0 vote.

2. W-01-09/VMRC-08-1194 Federal Highway Administration - Colonial Parkway

Pat Menichino presented the following case:

Mr. Kevin S. Rose of the Federal Highway Administration on behalf of the National Park Service, applied for a Wetlands Permit to install fill, geotextile fabric and approximately 3370 sqft of riprap adjacent to existing bridge abutments at College Creek along the Colonial Parkway, to prevent erosion and the eventual undermining of the abutments.

The property is further identified by James City County Real Estate as PIN # 5610100001. The project site is located on College Creek, a tributary to the James River. Representatives of the Federal Highway Administration were advised that attendance at the Wetlands Board meeting was highly recommended.

This project will involve the construction of riprap revetments adjacent to the NW and SW bridge abutments at College Creek. These proposed revetments are to be constructed using the riprap equivalent in size and weight to Class 2 armor stone, placed on type IV geotextile fabric over a granular fill material. The project will involve impacts to jurisdictional wetlands and it will include impacts to subaqueous bottom and upland areas not within the Wetlands Board's jurisdiction. The project as proposed will require the installation of cofferdams within College Creek. Dewatering the cofferdam areas will occur prior to the installation of granular fill to create a 1.5: 1 maximum slope. Following the creation of the slope, geotextile fabric will be installed and Class II riprap will be installed overtop at a minimum thickness of 2 feet.

Environmental Division staff visited the site on September 9, 2008, along with representatives from VMRC to review the project scope and potential impacts. Proposed inter tidal wetlands impacts for this project were determined to be 185 sqft at the NW abutment, 95 sqft at the SW abutment, for total intertidal impacts of 280 sqft to Type XV Sand/ Mud Flat Mixed Community. Proposed impacts to subaqueous zones would be 1560 sqft for NW abutment and 720 sqft for the SW abutment, total subaqueous impacts are 2280 sqft.

Staff recommended the Board approve this application, with the following conditions:

1. An onsite preconstruction meeting will be held between the owner, contractor, and county staff.
2. The limits of construction shall be flagged in the field prior to the preconstruction meeting. The location for the proposed toe of the revetment will be staked and delineated along the shoreline.
3. All vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting and approved by the Environmental Division (Division), prior to any land disturbance.
4. Any impacts to vegetation within the Resource Protection Area (RPA) buffers may require restoration and submittal to the County, of an RPA buffer restoration plan detailing the installation of native understory trees, shrubs, and ground cover. The amount of trees, shrubs, and ground cover required shall be determined by the Division. The implementation of the RPA restoration plan shall be guaranteed by surety in a form acceptable to the Division.
5. The armor stone proposed for this revetment is Class 2.
6. Staff reserves the right to require a turbidity curtain for this project if field conditions warrant its use.
7. This permit authorizes wetlands impacts only at the College Creek crossing as shown on plan sheets R-17 & R18.
8. Any unauthorized impacts to jurisdiction wetlands including surface waters will be treated as violations.

The permit shall expire November 13, 2009. 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 expiration date.

Mr. Hughes asked the status of the shoreline on the other side of the bridge.

Mr. Roadley asked if the proposed riprap was designed to protect the bridge abutments or the approach to the bridge.

Mr. Elkins asked when condition No.4, the restoration requirement, would be determined.

Mr. Menichino stated the erosion was greatest on the side of the bridge where the proposed riprap would be installed to protect the undermining of the abutments. The restoration condition was added to the resolution in the event that trees would need to be removed in the upland portions of the project.

Mr. Elkins asked if VMRC would comment on remediation measures for impacts to the subaqueous soil.

Elizabeth Gallup, VMRC, stated a royalty would be required from a private citizen but this application was being requested by a government body and based on the VIMS report there were not any resources being impacted by this proposal.

Mr. Hughes opened the public hearing.

Mr. Hughes asked what had caused the erosion of the abutments and asked if the National Park Service, as a property owner, had considered petitioning the Board of Supervisors to create a No Wake Zone on Powhatan Creek.

A. Kevin Rose, Environmental Compliance Specialist with the Federal Highway Administration, stated that boat traffic might have accelerated the condition but most of it was a natural occurrence.

B. Dorothy Geyer, National Park Service, stated that no formal petition had been submitted but she would bring it to the attention of the superintendent.

Mr. Hughes suggested the National Park Service pursue this petition with the County, in order to prevent the further erosion of their property caused by the boat traffic along the Powhatan Creek.

Mr. Hughes closed the public hearing as no one else wished to speak.

Mr. Gussman made a motion to adopt the resolution granting the wetlands permit for case W-01-09/VMRC-08-1194 with staff recommendations.

The motion was granted by a 5-0 vote.

D. BOARD CONSIDERATIONS

1. Calendar Year 2009 Meeting Schedule

All Board members agreed to adopt the 2009 Wetlands Board meeting schedule:
Provided there are cases to be considered the meetings will be at 7:00 PM on the 2nd Wednesday of each month except in November the meeting will be on Thursday, 11/12/09.

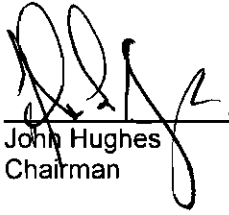
E. ELECTION OF OFFICERS FOR 2009

Mr. Gussman moved that John Hughes be reappointed as Chairman. All members were in favor.
Mr. Hughes moved that Larry Waltrip be appointed as Vice-Chairman. All members were in favor.

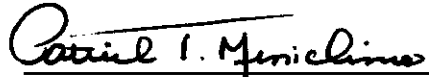
F. MATTERS OF SPECIAL PRIVILEGE - none

G. ADJOURNMENT

The meeting adjourned at 7:20 PM.



John Hughes
Chairman



Patrick T. Menichino
Secretary