

**JAMES CITY COUNTY WETLANDS AND CHESAPEAKE BAY BOARD  
COMBINED WORK SESSION  
MINUTES  
JANUARY 28, 2009 – 5:00 PM**

**A. ROLL CALL**

John Hughes  
Terence Elkins  
Larry Waltrip  
William Apperson  
Dick Mason – Alternate

**ABSENT**

David Gussman  
Chuck Roadley - Alternate

**OTHERS PRESENT**

County Staff  
Nancy Miller and Alli Baird, CBLA  
Randy Owen, VMRC  
Molly Roggero, VIMS

**B. OPEN MEETING**

John Hughes, Chairman, opened the work session for the Wetlands Board and  
William Apperson, Chairman, opened the work session for the Chesapeake Bay Board.

**C. PRESENTATIONS**

1. Chesapeake Local Assistance (CBLA) presentation by Nancy Miller and Alli Baird

The representatives gave a presentation on the history of the Chesapeake Bay Preservation Act and the benefits of the Resource Protection Area (RPA) buffers. They offered guidance and provided a variety of educational handouts for permitted development activities and exceptions for buffer area encroachments. They emphasized the importance of being consistent in decisions and adherence to the following five required findings when considering exception requests:

- The exception request is the minimum necessary to afford relief.
- Granting the exception will not confer upon the applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation (Ordinance), of the James City County Code, to other property owners similarly situated in the vicinity.
- The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code, and is not of substantial detriment to water quality.
- The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
- Reasonable and appropriate conditions are imposed, which will prevent the exception request from causing a degradation of water quality.

Pat Menichino, Compliance Specialist also advised the Board that the Ordinance specified the following conditions for granting appeals of administrative decisions:

- The hardship is not generally shared by other properties in the vicinity.
- The Chesapeake Bay, its tributaries and other properties in the vicinity will not be adversely affected.
- The appellant acquired the property in good faith and the hardship is not self-inflicted.

## 2. Virginia Marine Resource Commission (VMRC) representative Randy Owen and Virginia Institute of Marine Science (VIMS) representative Molly Roggero

Randy Owen described the roll of VMRC as the clearinghouse for processing the Joint Permit Applications (JPA), also reviewed by the Virginia Department of Environmental Quality (DEQ), the U.S. Army Corps of Engineers, and the local Wetlands Boards. VMRC's authority and responsibilities specifically regulate physical encroachment into the valuable resource areas of subaqueous or bottomlands, tidal wetlands, and coastal primary sand dunes. He described the recent change in the jurisdictions to include the dune and beach boundaries and suggested the local governments adopt a dunes and beaches ordinance.

Molly Roggero described the roll of VIMS as an advisory to the local Wetlands Boards. She stressed the importance of the natural shoreline and also recommended the upcoming work shop on February 12, 2009 for more information on the beaches and dunes in Virginia and the new regulations on the beach and dune jurisdiction.

Mr. Hughes asked if the Wetlands Board could approve the JPA's with modifications.

Randy Owens suggested the public advertisement only specify the location of the proposed project so the Board would not be limited in their decision.

## 3. Discussion

It was a determined that for both boards, the adjacent property owner notifications (APO's) and advertisements of the public hearings, only needed to specify the location and type of impacts.

The Chesapeake Bay Board could modify exception requests for lesser impacts to the RPA but because other agencies were involved, the Wetlands Board could only accept minor modifications to the specifications in the JPA.

## **D. MATTERS OF SPECIAL PRIVILEGE**


Angela King, Assistant County Attorney, advised the Wetlands Board that a resolution for the no wake zone on Powhatan Creek would not be required and suggested the Board direct staff to prepare a staff report for their consideration.

Mr. Hughes made a motion directing staff to prepare a staff report regarding the no wake zone on Powhatan Creek for presentation at the next Wetlands Board meeting.

The motion was adopted by a 4 – 0 vote (Mr. Apperson was absent for the vote)


**E. ADJOURNMENT**

The meeting adjourned at 7:10 PM.



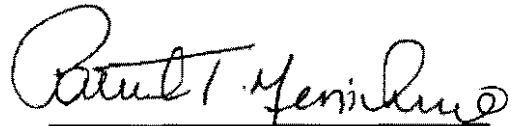
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John Hughes  
Chairman, Wetlands Board



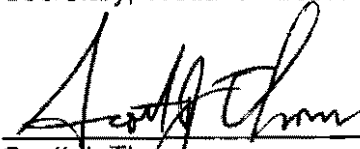
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William Apperson  
Chairman, Chesapeake Bay Board



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Patrick T. Menichino  
Secretary, Wetlands Board



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Scott J. Thomas  
Secretary, Chesapeake Bay Board