

**JAMES CITY COUNTY WETLANDS BOARD  
MINUTES  
February 11, 2009 - 7:00PM**

**A. ROLL CALL**

John Hughes - Chairman  
Larry Waltrip  
David Gussman  
Terence Elkins  
Charles Roadley - Alternate

**ABSENT**

William Apperson

**OTHERS PRESENT**

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 December 10, 2008 Board minutes were approved as written.

**C. PUBLIC HEARINGS**

1. **W-11-09/VMRC08-2028: Mershon – 500 Thompson Lane – dam alteration** cont from 12/10/08  
**W-10-08: Restoration Hearing - 500 Thompson Lane** cont from 11/13/08 and 12/10/08

Patrick Menichino stated the applicant wished to address the Board.

Mr. Roadley stated he was recusing himself from this case because the applicant had retained the services of Williamsburg Environmental Group where Mr. Roadley is employed.

**A.** Christine Conrad, Williamsburg Environmental Group, stated Mr. Mershon entered into a contract with her firm in January 2009 to determine a proposed course of action for the dam stabilization on his property. As directed by the Board in December 2008, they removed the sediment from the tidal wetland areas and maintained the silt fence to prevent further run off. She stated they will be submitting a proposal to VMRC in the next few days and are therefore requesting a 30-day deferral for that proposal to be processed and presented to this Board for review.

Mr. Menichino stated staff was agreeable to another 30-day deferral.

All Board members agreed to accept the applicants request for a deferral and continue both cases to the March 11, 2009 Wetlands Board meeting.

**D. BOARD CONSIDERATIONS**

1. **Staff Report on proposed No Wake Zone on Powhatan Creek**

Mr. Menichino presented the following report, on the impact of a proposed no wake zone along portions of Powhatan Creek, a tributary of the James River. This report provided the Board with information on the following aspects associated with Powhatan Creek:

1. Shoreline erosion rates and the impact of boat wake on the creek.
2. Property damage associated with boat wake.
3. Current and future boating use.
4. Safety considerations.

### Shoreline Erosion

The Shoreline Element within the County's Comprehensive Plan reported that the average long-term erosion rate for Powhatan Creek is 1 to 1.5 ft/year (Table 1.). Shoreline erosion rates of 1 to 3 ft/year are considered to be moderate and may require a form of shoreline protection to stabilize properties and prevent the continued transport of sediments into the creek. The transporting of sediment into Powhatan Creek has led to shoaling and a reduction in navigable water depths along the creek. The creek empties into a Sandy Bay, which consists of a narrow navigable channel and extensive adjacent mud flats. The shoreline report attributes the moderate erosion along the Powhatan Creek to increased boat traffic (Table 1.). The creek is relatively narrow and has a natural meander with several 90° bends along its length. The shoreline is comprised of uplands with the majority being protected by an extensive tidal marsh separating the shoreline from the navigable creek channel.

Staff has reviewed the shoreline along the creek and has determined that past erosion has resulted in the installation of hardened shoreline structures by property owners in an attempt to protect their property. Numerous wetlands permits have been issued by the County authorizing the installation of those hardened shoreline structures. Reports issued by the Department of Conservation and Recreation concerning erosion along the creek, have in part attributed the need for hardened shoreline structures to boat wake. In addition, a review of GIS photography clearly shows that the tidal marsh adjacent to the navigable creek is receding reportedly from boat wake (see 2002 and 2007 GIS photos).

### Property Damage

At this time, Staff is unable to quantify the cost of property damage associated with boat wake along the creek. The Board may choose to consider both real property damage, the cost of shoreline repair, and personal property (boats, docks, piers, etc.) when accessing damage costs. Property owners along the creek have attempted to prevent property damage by hardening their shoreline and by installing "NO Wake" signs on the waterway.

### Current and future boating use on Powhatan Creek.

Currently both recreational and commercial marine vessels utilize Powhatan Creek. The majority of commercial vessels generally limit their use of the waterway to the lower creek and the Jamestown Yacht Basin. Recreational use of the creek accounts for an estimated 95% of all uses along the waterway. The entrance to the Jamestown Yacht Basin is located 460 ft north of the Colonial Parkway Bridge and occurs within an "S" turn in the lower creek meander. The width of the creek at this location is approximately 200 ft with the navigable channel being reduced to approximately 145 ft. boating traffic heading North along the creek must pass under the narrow and restrictive center sections of the Colonial Parkway Bridge abutments to approach the yacht basin entrance.

The Jamestown Yacht Basin presently offers limited services to recreational boaters. The basin has wet slips for approximately 90 boats maximum and one boat ramp. Staff believes that the basin is currently not being utilized to its capacity. There is significant erosion occurring at the entrance to the basin along Powhatan Creek (see photo #6 and previous VIMS report) believed to be caused by boat traffic. A shoreline stabilization project (hardening) for this area was proposed in 2004 but was not implemented.

Proposals for improvements to the yacht basin are presently under review and consideration by James City County Government. One option under the "Shaping Our Shores" initiative includes the expansion of the marina to accommodate 160 wet boat slips, 168 dry boat storage berths, 2 improved boat ramps, a separate canoe and kayak launching area, a marina store, retail shops, a restaurant, condos, and an Inn. Staff estimates that if the proposed improvements are implemented potential for additional boating traffic within the basin and along Powhatan Creek could increase by more than 250%.

### Safety Considerations

As previously reported Powhatan Creek is a relatively narrow waterway presently impacted by moderate shoreline and marsh erosion resulting in shoaling and a loss of navigable waters. The creek morphology includes extreme meander which requires safer boating practices and increases the potential for boating accidents. The physical location of the yacht basin entrance, 460 ft from the Parkway Bridge and midpoint in an "S" turn within the creeks meander presents a navigation safety issue. Presently recreational use of the waterway includes a mix of high-speed powerboats, cruisers, kayakers, canoeists and fishermen. Staff has observed large power boats traveling at estimated speeds in excess of 35 mph and jet skis traveling in excess of 40 mph. The proposed expansion of recreational boating opportunities at a revitalized Jamestown Yacht Basin will only exacerbate boater safety issues on Powhatan Creek.

Mr. Hughes asked which areas of the creek were owned by the County.

Mr. Menichino indicated the area from the Jamestown Yacht Basin to the Landfall marsh and stated there may be additional areas.

Mr. Roadley asked for an overview of the process for establishing a no wake zone.

Angela King, Assistant County Attorney, stated the County Attorney's office was currently drafting language for an appropriate no wake zone ordinance. Virginia code Section 29.1-744 sub sections D and E offer guidance for establishing no wake zones. At this time, the County is pursuing the path outlined in sub section E, which allows the County to set up procedures for property owners to request no wake zones. They expect it to go before the Board of Supervisors some time in March. Under this option, individuals and/or groups of citizens or organizations could apply for the establishment of a no wake zone on specific areas or on the entire creek. The specific delineations for the no wake zones would then be established by the Board of Supervisors.

Mr. Gussman asked how the no wake zones would be enforced.

Ms. King stated the advantage of establishing the no wake zone, under sub-section E was that it required approval by the Director of the Department of Game and Inland Fisheries, and could therefore be enforced by state and/or local law enforcement.

Mr. Elkins asked if boat wake was the only reason for the erosion along the shoreline of the creek.

Mr. Menichino stated boat traffic and boat wake contributed to the erosion along Powhatan Creek; however, ebb and flood can cause erosion in creeks as well as storm events.

Mr. Waltrip stated this was only a no wake zone not a speed limit.

Mr. Menichino stated that was correct.

Mr. Craig Metcalfe, property owner in Landfall, stated he had contacted the National Park Service and they were in favor of establishing no wake zones along the creek. He also stated he was considering the speed limit condition for areas of the creek as well.

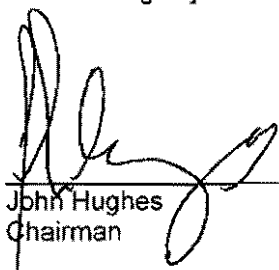
Mr. Roadley stated he was in favor of establishing no wake zones to help protect the wetlands along the creek.

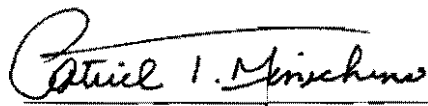
All Board members were in favor of recommending the establishment of a no wake zone ordinance. The Board unanimously requested that this motion of support be relayed to the Board of Supervisors.

**E. MATTERS OF SPECIAL PRIVILEGE – none.**

**G. ADJOURNMENT**

The meeting adjourned at 7:35 PM.

  
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John Hughes  
Chairman

  
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Patrick T. Menichino  
Secretary