

**JAMES CITY COUNTY WETLANDS BOARD SPECIAL COMMITTEE MEETING
MINUTES
APRIL 07, 2009 - 1:00 PM**

A. MEETING CALLED TO ORDER

B. ROLL CALL

Terence Elkins – Committee Chair
David Gussman
Larry Waltrip

ABSENT

OTHERS PRESENT

Pat Menichino – Wetlands Board Secretary
Karen Duhring – Virginia Institute of Marine Science (VIMS)
Elizabeth Murphy – Virginia Marine Resource Commission (VMRC)

C. COMMITTEE CHARGE

To review information regarding Wetlands Board permitting for open pile structures in vegetated wetlands and to present a report and recommendation to the Wetlands Board at the May 13, 2007 meeting.

D. PRESENTATIONS

1. Pat Menichino – Wetlands Board Secretary

Mr. Menichino presented a report to the Committee describing a site in James City County where the Environmental staff (Staff) had observed what appeared to be adverse impacts to vegetated wetlands associated with the construction of an open pile structure (pier). He described the current Joint Permit Application (JPA) process and the current procedure for piers without proposed wetlands impacts. These applications are processed administratively and a "no permit required" letter is sent to the applicant. He stated the following reasons for Staff's support of a Wetlands Board review and permit for open pile structures in vegetated wetlands:

1. The permit review and approval process by the Board minimizes proposed vegetated tidal impacts and prevents wetlands losses. Issuing an after the fact notice of violation does not.
2. The staff time necessary to enforce just one tidal wetlands violation is estimated to exceed all of the staff time dedicated to all other wetlands cases presented to the Board during an average calendar year.
3. Through the permit process the Board is empowered to authorize impacts to vegetated tidal wetlands and require mitigation, Staff is not authorized or empowered.
4. The permit issued by the Wetlands Board provides staff with authorized access to the property and allows for environmental monitoring of the vegetated tidal wetlands and discovery of unauthorized impacts.
5. Staff reviewed the wetlands log for the previous five years and determined that if the Board decided to review these cases, their caseload would increase by an average of only two or three cases per year.
6. The final step in the JPA process is for the Board to review proposed projects in order to preserve and prevent the despoliation and destruction of tidal vegetated wetlands. Staff believes that this additional step does not cause an unreasonable burden upon the applicant and is consistent with the role of the Board.

2. Karen Duhring – Virginia Institute of Marine Science (VIMS)

Ms. Duhring gave a power point presentation to the Board that described the following impacts to wetlands, associated with open pile structures:

- Direct impacts from shading, runoff, and possible channeling of waves.
- Construction related impacts from pile driving, matting, changes in elevation due to soil compaction and/or fill material, and pollution from petroleum leaks and/or solid waste
- Indirect impacts from sediment transport and changes in wildlife.

She also stated that VIMS was not involved with monitoring or reviewing pier construction and that she could find no study or research on how the construction impacts effected the regeneration of the wetlands.

3. Elizabeth Murphy – Virginia Marine Resource Commission (VMRC)

Ms. Murphy gave a power point presentation to the Board regarding a specific project on the Eastern Shore and the impacts associated with installation of a long pier.

E. COMMITTEE DISCUSSION AND DECISION

Mr. Menichino stated the lack of monitoring by VIMS and VMRC and the unknown effects of construction impacts were all valid reasons why the Board should review and permit open pile structures in vegetated wetlands. He repeated that with a Wetlands Board Permit, Staff would be able to monitor the construction and deter potential impacts.

Mr. Gussman and Mr. Waltrip stated they believed the long term impact to the wetlands from the construction of these structures was minimal and that the wetlands would re-vegetate.

Mr. Waltrip asked about the additional time required for an application to be reviewed by the Board for a local Wetlands Permit.

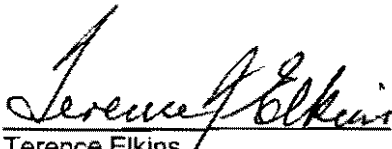
Staff responded it would take about 6 weeks.

The Committee members, staff, and representatives from VIMS and VMRC discussed the various advantages and disadvantages of requiring permits for open pile structures.

Mr. Elkins made a motion the Committee recommend to the full Wetlands Board that a Wetlands Board Permit be required for open pile structures in vegetated wetlands of the County, in those cases where Staff has valid reasons to anticipate that such construction may result in the alteration of the natural wetland contours or the unreasonable obstruction of tidal flows.

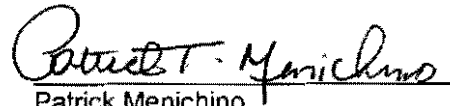
The motion was approved by a 3-0 vote.

The meeting ended at 2:45 PM.



Terence Elkins

Chairman of Wetlands Board Special Committee



Patrick Menichino

Secretary Wetlands Board