

**JAMES CITY COUNTY WETLANDS BOARD  
MINUTES  
Wednesday October 12, 2011**

**A. ROLL CALL**

John Hughes  
Larry Waltrip  
David Gussman  
Charles Roadley  
Roger Schmidt - Alternate

**ABSENT**

William Apperson

**OTHERS PRESENT**

Jeff Madden, Virginia Institute of Marine Science (VMRC)  
County Staff (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 September 14, 2011 Board minutes were approved as written.

**C. PUBLIC HEARINGS.**

**1. W-05-12 / VMRC 11-1274 – Driskill/Winall – 323 East Landing**

Michael Majdeski, Senior Environmental Inspector presented the following case information:

**Existing Site Data & Information**

Applicant:	Daniel Driskill/Danny Winall
Land Owner:	Daniel Driskill
Location:	323 East Landing
Parcel:	Lot 31, Kingsmill on the James, James City County
Parcel Identification:	5031200031
Lot Size:	2.35 acres
Watershed:	James River (HUC Code JL28)
Proposed Activity:	Construction of two rip-rap sill structures with associated beach nourishment and re-vegetation with native wetlands plantings (living shoreline)

**Proposed Impacts**

Vegetated Wetlands:	5,600 Square Feet
Non-Vegetated Wetlands:	4,200 Square Feet
Subaqueous Bottom:	8,500 Square Feet

**Brief Summary and Description of Activities**

Mr. Danny Winall on behalf of Mr. Daniel Driskill applied for a Wetlands Permit to undertake construction of two stone sill structures totaling 210 linear feet in length with associated sand fill placement for beach nourishment. The nourishment project will be completed with installation of wetland appropriate plantings.

The property is located at 323 East Landing in the Kingsmill Subdivision, directly adjacent to the James River. The property is further identified as JCC Parcel Number 5031200031. Danny Winall of Water's Edge Construction is the authorized agent for this project.

Site visits were conducted on several occasions between June and September by staff to evaluate both the potential scope of the project and the existing conditions on-site. Phragmites control and access through the uplands (RPA) was discussed at these meetings. The phragmites is proposed to be controlled through mechanical and chemical means. The access through the uplands will not remove any woody vegetation, only herbaceous (lawn grass), which will be re-stabilized at the end of the project. There are existing, living bald cypress (*taxodium distichum*) that will remain.

The property, and specifically the proposed work area, is situated in a southerly facing direction and, as stated previously, lies along the James River in southeastern James City County. The existing shoreline consists of a narrow sandy beach bordered by a marsh to the east and stone armored shoreline to the west. Mean low water varies at distance to the shoreline of five to ten feet depending on location. Mean high water falls entirely along the shoreline. The upland area immediately adjacent to the beach consists of a stand of highly invasive Phragmites. The area further upland consists of a well vegetated residential lawn.

The project design proposes to install approximately 210 linear feet of Class II quarry stone over Class A-1 core stone and filter cloth to create the two rock sill structures approximately 50-55 feet offshore. Once the sill structures are completed, approximately 1,065 cubic feet of sand will be installed behind the sills to provide beach nourishment. The new beach area will then be planted with *Spartina alterniflora* and *Spartina patens* to provide for long term stabilization. Prior to the undertaking of beach nourishment, the area of invasive Phragmites directly adjacent to the existing beach will be eradicated.

Access to the work area will be provided through the adjacent upland area and due to the current conditions on-site, there will be minimal clearing and grading required during installation.

For the Board's information, the shoreline at 323 East Landing has changed dramatically over the past fifteen years resulting in a net loss of 14,000 square feet of shoreline. This erosive activity has been most likely caused by high storm waves and up-shore properties that have been hard-armored with stone revetment structures may have reduced the amount of downstream transport of sand and allowed for the accelerated erosion over time.

### **Staff Recommendations**

The issue before the Board is the installation of the sills and the associated grading as well as the filling of wetlands to facilitate a beach nourishment project and subsequent re-planting. Staff has fully reviewed the application and permit request and has determined that the conditions outlined in Section 22-4 (b) have been met.

1. Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
2. All other federal, state, and local permits required for this project shall be obtained prior to commencing work. Evidence of the securing of these permits must be provided prior to the pre-construction meeting.
3. The limits of work shall be flagged in the field prior to the pre-construction meeting.
4. No woody vegetation shall be removed as part of this project unless approved by the Engineering and Resource Protection Division.
5. Construction access through the uplands will avoid the existing large, mature trees.
6. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures, including a turbidity curtain, for this project if field conditions warrant their use.

7. Eradication of the phragmites must be undertaken in a manner approved by Federal and State standards.
8. The wetlands permit for this project shall expire on October 12, 2012. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than two weeks prior to the expiration date.

**Consideration by the Wetlands Board**

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 22-8 of the County's Wetlands ordinance. The Wetlands Board is to fully consider Wetlands Permit Application W-05-12 as outlined and presented above and review the request for permitting. The Board may grant the permit with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 22 Wetlands Ordinance. Resolutions for granting approval or granting denial of Wetlands Permit Application W-05-12 are included for the Board's use and decision.

Mr. Gussman asked if staff could estimate in linear feet, the erosion of this shoreline since 1996.

Mr. Schmidt asked why the application did not propose tying into the upstream armor.

Mr. Majdeski stated the erosion appeared to be approximately 25 linear feet. He deferred Mr. Schmidt's question to the applicant.

Mr. Hughes opened the public hearing.

A. Dr. Dan Carr, adjacent property owner at 135 West Landing, stated he was concerned this project might cause a buildup of sediment reducing the depth of water at his dock. He asked if the proposal could include a five year guarantee that there would be no sediment buildup on his property from this project.

Mr. Hughes advised Mr. Carr, that the local Wetlands Board did not have jurisdiction over the subaqueous wetlands and he needed to address his concerns to the Virginia Marine Resource Commission (VMRC).

B. Danny Winall with Waters Edge Construction, agent for the applicant, stated he felt this project would more likely reduce sediment buildup in the river but regardless he could not guarantee there would be no sediment deposited for five years because there would be no way to prove the source of the sediment. He also responded to Mr. Schmidt's question stating the project did not tie into the adjacent property armor for economic reasons.

Mr. Roadley asked Mr. Winall if the direction of net transport along this shoreline was down stream and if he anticipated any sediment buildup along the upstream sill.

B. Mr. Winall stated the major fetch was coming from upriver and he did not anticipate a buildup of sediment.

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

Mr. Gussman stated this appeared to be a reasonable approach to correcting a significant erosion problem.

Mr. Waltrip agreed and stated this project looked like it would reduce the release of sediment into the river from this property.

Mr. Hughes said he understood the concerns of the adjacent property owner but he also felt if there was re release of sediment from this site it would move down river.

Mr. Gussman made a motion to adopt the resolution granting the Wetlands Permit for case W-05-12 / VMRC 11-1274 at 323 East Landing, Tax Parcel #5031200031.

The motion was approved by a 5-0 vote.

#### D. BOARD CONSIDERATIONS

##### 1. Amendment to Wetlands Board Bylaws

Lola Perkins, Assistant County Attorney, presented the Board with the following proposed amendments:

- ARTICLE IV Section 1 – Add the option to conduct nominations and elections at the December meeting if the November meeting is not held.
- ARTICLE VI Section 4 – In order to be consistent with the County and State Code requirements, if an application receives less than three affirmative votes the permit shall be denied instead of continued to the next meeting.

Mr. Hughes made a motion to accept the proposed amendments to the Wetlands Board bylaws.

The motion was approved by a 5-0 vote.

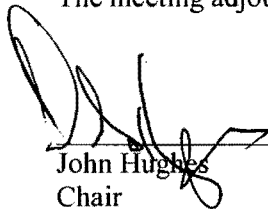
#### E. MATTERS OF SPECIAL PRIVILEGE


##### 1. Potential Wetland Violation

Michael Woolson, Senior Watershed Planner, advised the Board of the potential violation for permit conditions not being followed on a project permitted by this Board last year. Staff and VMRC have met with the contractor and owner to resolve the issue however, should the project remain in violation, the next step would be to conduct a show cause hearing.

#### F. ADJOURNMENT

The meeting adjourned at 7:11 PM.

  
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John Hughes  
Chair  
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Melanie Davis  
Secretary