

**JAMES CITY COUNTY WETLANDS BOARD
MINUTES
Wednesday September 12, 2012**

A. ROLL CALL

John Hughes
Billy Apperson
Larry Waltrip
Louis Bott - Alternate
Roger Schmidt - Alternate

ABSENT

David Gussman
Charles Roadley

OTHERS PRESENT

Juliette Giordano, Virginia Marine Resource Commission (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 July 12, 2012 Board minutes were approved as written.

C. PUBLIC HEARINGS

1. **W-20-12 / VMRC 12-0271 – Parsons/Dock Masters – 217 Sherwood Forest**

Continued from 4/11/12, 5/9/12 and 7/12/12

Michael Woolson, Senior Watershed Planner stated Mr. Parsons was requesting an additional deferral for up to 6 months to continue modifying his application. Staff concurred with this request.

Lola Perkins, Assistant County Attorney advised the Board that a continuance would have to be granted to a specific date.

Mr. Woolson suggested a three month deferral to the meeting in December.

Mr. Hughes made a motion to defer the case and continue the public hearing for case W-20-12 / VMRC 12-0271 at 217 Sherwood Forest, to December 12, 2012.

The motion was approved by a 5-0 vote.

2. **W-02-13 / VMRC 12-1071 – Sweany/Mid-Atlantic – 6405 Conservancy**

Michael Woolson, Senior Watershed Planner presented the case for the Joint Permit Application (JPA) submitted by Ms. Karla Havens with Mid-Atlantic Resource Consulting on behalf of property owner Mr. Robert Sweany. The issue before the Board was a permit for wetlands impacts that may occur during the construction of a 5 ft by 608 ft non-commercial, open-pile pier on College Creek at 6405 Conservancy in the Vineyards at Jockeys Neck Subdivision, Parcel No. 4930300002.

Mr. Woolson explained that this case was before the Board because of the following special committee recommendation adopted by this Board on May 13, 2009. *The Special Committee of the James City County Wetlands Board unanimously recommends to the full Wetlands Board that a wetlands permit be required for the construction of open pile structures proposed in vegetated tidal wetlands of the County, in those cases where staff has valid reasons to anticipate that the construction of such a structure may result in the alteration of the natural wetland contours or the unreasonable obstruction of tidal flow.*

A change was noted in the staff report conditions for granting this permit. Condition 5 was changed from an escrow determination by the Board to a specific \$5,000 surety to guarantee the 'no net-loss' wetland policy.

Staff recommended approval for the project with the amended conditions specified in the Resolution to Grant the Wetlands Permit.

Mr. Hughes opened the public hearing.

Mr. Apperson asked if the applicant knew how the *Phragmites* got established at this location.

A. Karla Havens, Mid-Atlantic Resource Consulting displayed an overhead photograph indicating the area in question but did not have an explanation for how the *Phragmites* were established. The photograph also indicated the location of the proposed pier, dock and boathouse.

Mr. Bott asked about the manner of construction and the type of equipment that would be used to construct the pier.

Mr. Hughes asked for an estimate of how long this project would take.

B. Donald Hicks, Waterfront Piers and Bulkheads contractor for the project, stated he would be using 10' X 16' mats and a mini excavator. He anticipated the project would take approximately one month, weather permitting. He said the piles would be driven unless they hit sand that would require jetting.

Mr. Schmidt asked if the wetlands would revegetate when the mats were removed.

Mr. Apperson asked if Ms. Havens knew of any marsh that had been permanently destroyed by the use of construction mats.

A. Ms. Havens suggested the amount of compression would determine the type of vegetation that returned. She responded to Mr. Apperson that there might be areas associated with the wood chips tube in West Point where vegetation had not returned but it may be due to the soil composition rather than compression from construction mats.

C. Adjacent property owners, Carolyn Imoehl, 221 Southpoint Drive and Kenneth Adams, 217 Southpoint Drive expressed concern for the location and length of the pier, the size of the dock and boat house, and how the project would affect navigation of the channel.

D. Denise Koch 215 Southpoint Drive also was concerned about navigation and impacts to the marsh.

E. Robert Sweany, property owner, stated the location of adjacent property lines and piers were taken in to consideration when determining the location of this pier and dock.

Mr. Apperson stated he did not believe wetlands were permanently impacted by open pile structures.

Juliette Giordano, VMRC addressed the concerns about navigation stating that VMRC reviewed this application and found there would be no hindrance to navigation.

Mr. Bott made a motion to adopt the resolution granting the wetlands permit for case #W-02-13 / VMRC #12-1071 at 6405 Conservancy, Parcel No. 4930300002.

The motion was approved by a 5-0 vote.

RESOLUTION

GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCEL NO. 4930300002

WHEREAS, Ms. Karla Havens on behalf of Mr. Robert Sweaney, (the “Applicant”) appeared before the Wetlands Board of James City County (the “Board”) on September 12, 2012 to request a permit to use and develop in areas designated as wetlands on a parcel of property identified as JCC RE Tax Parcel No. 4930300002 and further identified as 6405 Conservancy within the Vineyards at Jockeys Neck subdivision (the “Property”) as set forth in the application W-02-13 / VMRC 12-1071; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, following a public hearing, the Wetlands Board of James City County by a majority vote of its members FINDS that:

1. The anticipated public and private benefit of the proposed activity in the wetlands exceeds its anticipated public and private detriment.
2. The proposed development conforms to the standards prescribed in section 28.2-1308 of the *Code of Virginia*, and the guidelines promulgated pursuant to section 28.2-1301 of the *Code of Virginia*.
3. The proposed activity does not violate the purpose and intent of Chapter 22 of the James City County Code or sections 28.2-1300 et. seq. of the *Code of Virginia*.
4. In granting this wetlands permit, the following conditions are hereby imposed:
 - 1) The applicant must obtain all other necessary local, state, and/or federal permits required for the project.
 - 2) Prior to construction, a pre-construction meeting will be held on-site.
 - 3) The pathway through the RPA upland needs to be clearly marked prior to the pre-construction meeting. Removal of mature canopy trees should be avoided to the greatest extent practicable. And no trees shall be removed as part of this project unless approved by the Engineering and Resource Protection Division.
 - 4) 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.
 - 5) A surety in the amount of \$5,000.00 shall guarantee the ‘no net-loss’ wetland policy as outlined in 4VAC20-390-10 et seq. The surety shall be in a form acceptable to the James City County Attorney’s office.

- 6) A meeting shall take place no later than one year after pier construction is completed to determine the extent of wetland impacts. The Engineering and Resource Protection Division staff (Staff) shall invite representatives of the regulatory agencies dealing with tidal wetlands, The Virginia Institute of Marine Science (VIMS), Applicant, agent, contractor, and Wetlands Board members to this meeting. It will be determined at this meeting what the extent of wetlands impacts are, if any. Staff will make a presentation at the next scheduled Wetland Board meeting regarding the extent of any impacts and make a recommendation to the Board regarding mitigation.
- 7) The wetlands permit for this project shall expire on September 12, 2013. 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.

3. **W-03-13 / VMRC 12-1136 – Forsyth/Boyd Nursery – 1784 Cypress Isle**

Michael Woolson, Senior Watershed Planner presented the case for the Joint Permit Application (JPA) submitted by Wesley Boyd, Boyd Nurseries Inc. on behalf of owner Judy Forsyth for a beach nourishment project at 1784 Cypress Isle in the Governors Land at Two Rivers subdivision, Parcel No. 4321400003.

The issue before the Board was the filling of vegetated wetland to facilitate approximately 5,220 sqft of beach nourishment and the subsequent relocation and replanting of vegetation. It was noted that the proposed work in the RPA indicated on the mitigation plan, would be considered by the Chesapeake Bay Board immediately following this meeting.

Staff recommended approval for the project with the conditions specified in the Resolution to Grant the Wetlands Permit.

Mr. Waltrip stated the project appeared to be consistent with conditions on the adjacent properties.

Mr. Schmidt asked and Mr. Woolson confirmed the sand for the beach nourishment would be brought in by truck.

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

Mr. Hughes made a motion to adopt the resolution granting the wetlands permit for case #W-03-13 / VMRC #12-1136 at 1784 Cypress Isle, Parcel No. 432140000.

The motion was approved by a 5-0 vote.

RESOLUTION

GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCEL NO. 4321400003

WHEREAS, Mr. Wesley Boyd, on behalf of Ms. Judy Forsyth, (the “Applicant”) appeared before the Wetlands Board of James City County (the “Board”) on September 12, 2012 to request a permit to use and develop in areas designated as wetlands on a parcel of property identified as JCC RE Tax Parcel No. 4321400003 and further identified as 1784 Cypress Isle within the Governors Land at Two Rivers subdivision (the “Property”) as set forth in the application W-03-13 / VMRC 12-1136; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, following a public hearing, the Wetlands Board of James City County by a majority vote of its members FINDS that:

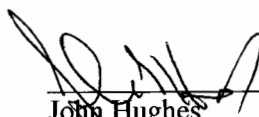
1. The anticipated public and private benefit of the proposed activity in the wetlands exceeds its anticipated public and private detriment.
2. The proposed development conforms to the standards prescribed in section 28.2-1308 of the *Code of Virginia*, and the guidelines promulgated pursuant to section 28.2-1301 of the *Code of Virginia*.
3. The proposed activity does not violate the purpose and intent of Chapter 22 of the James City County Code or sections 28.2-1300 et. seq. of the *Code of Virginia*.
4. In granting this wetlands permit, the following conditions are hereby imposed:
 - 1) Prior to any land disturbing activities, a pre-construction 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) A surety in the amount of \$5,000.00 shall guarantee the survival of the wetland plantings for two years after planting. The surety shall be in a form acceptable to the James City County Attorney's office.
 - 8) The wetlands permit for this project shall expire on September 12, 2013. 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.

D. BOARD CONSIDERATIONS - None

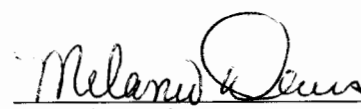
E. MATTERS OF SPECIAL PRIVILEGE - None

F. ADJOURNMENT

The meeting adjourned at 7:52 p.m.



John Hughes
Chair



Melanie Davis
Secretary