

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

A. ROLL CALL

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

ABSENT

William Apperson

OTHERS PRESENT

Juliette Giordano and Jordan Creed, 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 November 14, 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, 7/12/12 and 9/12/12

Michael Woolson, Senior Watershed Planner stated Mr. Parsons was requesting an additional deferral to April as he was still modifying his application. Staff concurred with this request and stated Mr. Parsons was informed that this was the last continuance Staff would support.

Mr. Roadley 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 April 10, 2013.

The motion was approved by a 5-0 vote.

1. **W-04-13 / VMRC 12-1213 – Minichiello/Mid-Atlantic/Jordan Marine – 133 Branscome**

Mr. Hughes Wetlands Board Chair stated he was an adjacent property owner and therefore was abstaining from considering this case. As Mr. Apperson, Vice Chair was absent, Mr. Hughes appointed David Gussman to serve as Chairman pro tem for this case.

Michael Woolson, Senior Watershed Planner presented the case for the Joint Permit Application (JPA) submitted by Mid-Atlantic Resource Consulting on behalf of property owner Mr. Vittorio Minichiello. The issue before the Board was a permit for wetlands impacts that may occur during the construction of a 5 ft by 245 ft non-commercial, open-pile pier on Powhatan Creek at 133 Branscome in the Powhatan Shores Subdivision, Parcel No. 4731000018. Mr. Wilber Jordan, contractor on the project submitted construction means and methods. In the presentation, Mr. Woolson further described the proposed construction methods and displayed photos of the proposed site and the existing pier on the manmade canal which is outside of VMRC's jurisdiction.

Mr. Roadley asked per condition #5 of the granting resolution, if a survey would be conducted to determine the wetlands impacts after construction.

Mr. Woolson stated it would be a visual review with photos taken during and post construction for comparison.

Mr. Schmidt asked how the surety amount was determined.

Mr. Woolson explained it was a percentage of the overall potential wetlands impact.

Mr. Waltrip stated a wetlands permit was not required from this board for installing the pilings but for disturbing the wetlands.

Mr. Roadley added that these permits were required in order to evaluate the impact to wetlands for large piers and to alert applicants and contractors to the potential for adverse impacts during construction.

Mr. Gussman opened the public hearing.

A. Karla Havens, Mid-Atlantic Resource Consulting, agent for the applicant, stated she and Mr. Jordan, the contractor were present to answer any questions regarding the proposed construction. She also advised the Board the applicant was requesting this pier and covered boathouse on Powhatan Creek because the Powhatan Shores subdivision did not permit covered boathouses on the canal and Mr. Minichiello wanted to protect his boat.

Mr. Gussman closed the public hearing.

Mr. Roadley made a motion to adopt the resolution granting the wetlands permit for case #W-04-13 / VMRC #12-1213 at 133 Branscome, Parcel No. 4731000018.

The motion was approved by a 4-0-1 vote (Mr. Hughes abstained).

RESOLUTION

GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCEL NO. 4731000018

WHEREAS, Ms. Karla Havens, Mid-Atlantic Resource Consulting, on behalf of Mr. Vittorio Minichiello, (the "Applicant") has appeared before the Wetlands Board of James City County (the "Board") on December 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. 4731000018 and further identified as 133 Branscome Boulevard within the Powhatan Shores subdivision (the "Property") as set forth in the application W-04-13 / VMRC 12-1213; 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 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.
 - 4) A surety in the amount of \$2,000.00 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.
 - 5) A meeting shall take place no later than one year after pier construction is completed to determine the extent of wetland impacts. The James City County Engineering and Resource Protection Division staff (Staff) shall invite representatives of the regulatory agencies dealing with tidal wetlands, 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.
 - 6) The wetlands permit for this project shall expire on December 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

1. Change date for January 2013 meeting

The Board unanimously agreed to move the next meeting date from Wednesday January 9, 2013 to Thursday January 10, 2013 due to a scheduling conflict with the County Planning Commission.

E. MATTERS OF SPECIAL PRIVILEGE

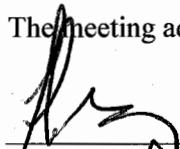
1. Staff presentation

Mike Woolson, Senior Watershed Planner gave a presentation on the following 2 wetlands projects under construction:

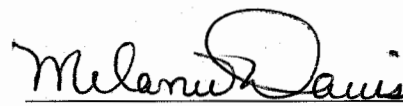
W-09-12 – County Parks & Rec/Stormwater - Jamestown Beach Restoration, Phase I, II and future III
W-05-12 – Driskill/Waters Edge – 323 East Landing – Sill and Beach Nourishment

F. ADJOURNMENT

The meeting adjourned at 7:20 p.m.



John Hughes
Chair



Melanie Davis
Secretary