

**JAMES CITY COUNTY WETLANDS BOARD
MINUTES
Wednesday November 13, 2013**

A. ROLL CALL

John Hughes
William Apperson
David Gussman
Charles Roadley
Louis Bott - Alternate

ABSENT

Larry Waltrip

OTHERS PRESENT

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.

A proposal to suspend Article V, Section 5 of the Wetlands Board bylaws was approved by a 5-0 vote in order to amend the agenda and take up public hearings first.

C. PUBLIC HEARINGS

1. W-03-14/VMRC13-1345: Timmons Group/Xanterra – boardwalk and pier

Michael Woolson, Senior Watershed Planner presented this case concurrently with the Chesapeake Bay Board case CBE-14-041 for the same project.

Timmons Group, on behalf of Mr. Kevin Kolda of Xanterra Kingsmill, LLC applied for a Wetlands Permit to install an open pile boardwalk and pier to serve the adjacent Cottages at Kingsmill development. The boardwalk and pier will impact approximately 360 square feet of non-vegetated intertidal riprap from the defensive riprap revetment structure that was built under permit #W-04-98 (VMRC 98-0034). The permit is to be considered by the Wetlands Board because it is commercial in nature.

Mr. Woolson described the location and all impacts associated with the project and the current conditions and topography of the site. He also referenced comments in the report from the Virginia Institute of Marine Science (VIMS).

Mr. Roadley announced that although his firm had dealings with Kingsmill Community Service Association (KCSA), he discussed this connection with the County Attorneys and was stating for the record that he could independently weigh the pros and cons of this case without prejudice and would be acting on this application.

Mr. Hughes opened the public hearing for the Wetlands Board.

A. Mr. Chris Dodson, with Timmons Group representing Xanterra Kingsmill LLC, gave a presentation on the project similar to staff's presentation. He stated the pier would not be used for boats, as there was already an adjacent marina for this purpose. He explained that because of the elevation and position of the boardwalk there would be minimal shading to the river bottom. He also relayed the alternative solutions that were considered and explained why the proposed location was decided upon.

B. Mr. Michael McGurk on behalf of Preserve Carter's Grove Country Road and Kingsmill United, spoke against the exception request based on the necessity of the project. He gave a presentation stating there was currently public access to the marina, beach and river and he believed it was ADA compliant however, beginning January 1, 2014 Xanterra was limiting access including that created by this project, to club members and guests only. He described the proposed boardwalk as being excessive in length and a detriment to the natural, historical view shed. He referenced the 2007 Virginia Outdoor Plan by the Department of Conservation and Recreation the James City County 2009 Comprehensive Plan stating the need for public not private access to recreational waters and future development or redevelopment away from shoreline areas to retain the waterfront area for community open space and piers.

C. Ms. Rubyjean Gould, 309 Archers Mead spoke in opposition to the project stating she agreed with the presentation by Mr. McGurk.

D. Mr. John Niland, 503 River Bluffs also agreed with Mr. McGurk's presentation in opposition to the project. He added the proposed 12 foot wide boardwalk and 6 foot wide pier were in excess of ADA compliance requirements.

Mr. Hughes asked for a count of the citizens present, those opposed and those in favor of the proposed permits. On a raise of hands he determined a count of approximately 15 opposed and 10 in favor.

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

Mr. Woolson restated that the Wetlands Board permit was for 360 square feet of impact at three crossings associated with a portion of the commercial pier and boardwalk.

Mr. Roadley pointed out that the impacts were to rip rap that generally had the least aquatic value of the areas in the Wetlands Board jurisdiction and also stated the aesthetic impacts were not within this Board's purview.

Mr. Apperson agreed with Mr. Roadley's assessment of the Board's jurisdiction but stated he was extremely sympathetic with the citizens' concerns regarding public access. He and Mr. Roadley asked the applicant to address this issue.

E. Ms. Robin Carson, general manager of Kingsmill Resort, stated the resort has always been privately owned, operated and maintained. While the previous owners permitted public access the current owner, Xanterra, views the resort as open to resort members only.

Mr. Hughes was still concerned with the proposed project being for private financial gain and of no public benefit.

Mr. Bott asked for clarification on the difference between commercial and private piers and the Board's purview for either.

Mr. Woolson stated a private pier would be owned by a single individual with riparian rights for construction of an open pile structure without a Wetlands Board permit. As this pier and boardwalk are not for individual private use, staff determined it should be considered by this Board.

Mr. Gussman made a motion to adopt the resolution granting the wetlands permit for case #W-03-14/VMRC #13-1345, the pier and boardwalk for the Kingsmill Riverwalk project at 1000 Kingsmill Road, Parcel No. 5040100001.

The motion was approved by a 3-2 vote: Aye (Roadley, Apperson, Gussman)
Nay (Bott, Hughes)

RESOLUTION

GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCEL NO. 5040100001

WHEREAS, The Timmons Group on behalf of Xanterra Kingsmill, LLC (the "Applicant") has appeared before the Wetlands Board of James City County (the "Board") on November 13, 2013 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. 5040100001 and further identified as 1000 Kingsmill Road in the Kingsmill subdivision (the "Property") as set forth in the application W-03-14/VMRC 13-1345 Kingsmill Resort Riverwalk; 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 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; and
 - 3) No woody vegetation shall be removed as part of this project outside of the scope unless approved by the Engineering and Resource Protection Division; and
 - 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; and
 - 5) The limits of work shall be flagged in the field prior to the pre-construction meeting;
 - 6) The wetlands permit for this project shall expire on November 13, 2014. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

B. MINUTES

The October 9, 2013 Board minutes were approved as written.

The November 7, 2013 Wetlands Board training minutes were approved a written.

D. BOARD CONSIDERATIONS

1. Calendar Year 2014 Meeting Schedule

A motion was made to change the proposed January meeting date from Wednesday January 8, 2014 to Thursday January 9, 2014 due to a conflict with the Planning Commission. All Board members were in favor and agreed to adopt the 2014 Wetlands Board meeting schedule.

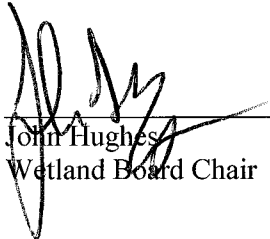
2. Election of Officers for 2014

Mr. Gussman moved that John Hughes be reappointed as Chair. All members were in favor.
Mr. Hughes moved that William Apperson be reappointed as Vice-Chair. All members were in favor.
Melanie Davis was reappointed as Secretary. All members were in favor.

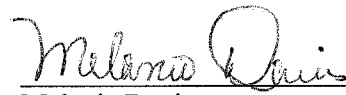
E. MATTERS OF SPECIAL PRIVILEGE - None

F. ADJOURNMENT

The meeting adjourned at 9 p.m.



John Hughes
Wetland Board Chair



Melanie Davis
Secretary to the Board