

**JAMES CITY COUNTY WETLANDS BOARD
MINUTES
Wednesday July 8, 2015**

A. ROLL CALL

John Hughes – Chair
William Apperson
David Gussman
Charles Roadley
Roger Schmidt - Alternate

ABSENT

Larry Waltrip

OTHERS PRESENT

County Staff:

Michael Woolson, Senior Watershed Planner
Scott J Thomas, Engineering and Resource Protection Director
Allie Kotula, Assistant County Attorney
Melanie Davis, Secretary to the Board

Mark Eversole, Virginia Marine Resource Commission (VMRC)

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 June 10, 2015 Board minutes were approved as written.

C. PUBLIC HEARINGS

1. W-16-15 / VMRC 15-0711: Xanterra Kingsmill – Kingsmill Marina

Michael Woolson presented this case for the Joint Permit Application (JPA) submitted by Kevin Kolda on behalf of Xanterra Kingsmill LLC. The application was for a permit to relocate an existing floating dock from Wareham's Pond to the Kingsmill Marina on the James River at 1010 Kingsmill Rd, JCC Parcel Number 5040100002C. The work will be performed by Kingsmill Resort personnel and no new construction is proposed. The commercial nature of the application requires approval from the local Wetlands Board. Staff recommended approval of this application with the conditions specified in the Resolution to Grant.

Mr. Hughes opened the public hearing.

A. Mr. Kevin Kolda was present and stated he was available for questions.

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

All Board members agreed the application was acceptable.

Mr. Gussman made a motion to adopt the resolution granting the wetlands permit for case W-16-15/ VMRC 15-0711 at 1010 Kingsmill Rd, Parcel No. 5040100002C.

The motion was approved by a 5-0 vote.

RESOLUTION
GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCEL 5040100002C

WHEREAS, Mr Kevin Kolda on behalf of Xanterra Kingsmill LLC (the "Applicant"), has applied to the Wetlands Board of James City County (the "Board") to request a permit to use and develop in areas designated as wetlands on a parcel of property identified as JCC RE Tax Parcel 5040100002C and further identified as the Kingsmill Marina at 1010 Kingsmill Rd in the Kingsmill subdivision (the "Property") as set forth in the application W-16-15/VMRC JPA #15-0711; 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 on July 8, 2015, 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) The wetlands permit for this project shall expire on July 8, 2016. 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.

2. W-15-15 / VMRC 15-0684: Reilly/Water's Edge Construction – 132 & 134 Shellbank Drive

Michael Woolson presented this case for the Joint Permit Application (JPA) submitted by Daniel Winall with Water's Edge Construction, on behalf of property owners Paul and Karen Reilly. The application was to install a 160 foot stone breakwater, a 160 foot low profile stone sill and sand beach fill, creating a living shoreline to protect the existing shoreline along the James River and tidal marsh along Shellbank Creek at 132 and 134 Shellbank Drive in the Shellbank Woods/First Colony subdivision, JCC Parcel Numbers 4510200001, 4510200001A and 4510100011. Mr. Woolson described the current conditions of the site and the location and construction of the proposed structures, beach nourishment and wetlands plantings. Staff reviewed the application, determined the project met the three VMRC required criteria and recommended approval of this project with the conditions specified in the Resolution to Grant.

Mr. Hughes opened the public hearing.

Mr. Hughes asked how the applicant proposed to access the shoreline for this project.

A. Daniel Winall, contractor and agent for the applicant stated access will be from Shellbank Drive, behind the exiting dwelling on lot 132 to the end of the revetment on lot 134. The beach nourishment will be brought in first, constructing a road out to the point and the sill will be constructed from there. The breakwater will be construction from the existing bulkhead at the other end of the property.

Mr. Gussman asked if sediment profiles were done to determine if it could support the weight of the stone, as he knew the bottom in some marshes was quite muddy and soft.

A. Mr. Winall stated they had probed the bottom and this area was not that bad. He added that they will use engineered fabric and filter cloth in the construction and the beach fill will also help to support the structure.

Mr. Apperson asked if there would be a problem reaching the required 90% survival rate for the planted material.

A. Mr. Winall felt the rate was high but was possible given the conditions at this site. He said the biggest problem would be the geese predation.

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

Mr. Hughes stated and all Board members agreed that although this was a substantial project, it would be worth the effort and the County was placing conditions to guarantee the results.

Mr. Apperson made a motion to adopt the resolution granting the wetlands permit for case W-15-15/VMRC 15-0684 at 132 & 134 Shellbank Drive, Parcel Nos. 4510200001, 4510200001A and 4510100011.

The motion was approved by a 5-0 vote.

RESOLUTION
GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCELS
4510200001, 4510200001A, 4510100011

WHEREAS, Mr. Daniel Winall, Water's Edge on behalf of Paul and Karen Reilly (the "Applicant") has applied to the Wetlands Board of James City County (the "Board") to request a permit to use and develop in areas designated as wetlands on property identified as JCC RE Tax Parcels 4510200001, 4510200001A, 4510100011 and further identified as 132 and 134 Shellbank Drive in the Shellbank Woods Subdivision (the "Property") as set forth in the application W-15-15/VMRC 15-0684: 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, on July 8, 2015, 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 federal, state, and local permits as required for the project.
 - 2) Prior to construction, the limits of the sill and revetment shall be re-staked in the field if necessary.
 - 3) Prior to construction, a pre-construction meeting will be held on-site.
 - 4) Prior to construction, a \$1,500 surety for the wetland plantings shall be submitted in a form acceptable to the County Attorney's office.
 - 5) The surety will be held for a minimum of one growing season after planting.

- 6) There shall be a 90% survival rate of the planted material after one growing season or additional plantings completed to reach 90% of the original quantity prior to surety release.
- 7) 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.
- 8) The wetlands permit for this project shall expire on July 8, 2016 if construction has not begun. 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.

3. **W-14-15 / VMRC 15-0679: O'Brien/Mid-Atlantic-7588 Uncles Neck**

Michael Woolson presented this case for the Joint Permit Application (JPA) submitted by Karla Havens with Mid-Atlantic Resource Consulting, on behalf of property owners Michael and Maureen O'Brien. The application was to install an approximate 445 foot offshore sill and associated beach nourishment for a living shoreline at 7588 Uncles Neck on the Chickahominy River in the Rivers Bend at Uncles Neck subdivision, JCC Parcel Number 2010200022. The project included grading of the bank that would be considered by the Chesapeake Bay Board at the following meeting. Mr. Woolson described the location and construction of proposed structure, the proposed plantings and the current conditions of the site. Staff reviewed the application, declared that the project met the three VMRC required criteria and recommended approval of this project with the conditions specified in the Resolution to Grant.

Mr. Hughes asked if the angle to tie in to the adjacent property revetment was extreme due to the wave action at this location.

Mr. Roadley referred to Mr. Apperson's comment on the previous case and asked if there had been any problems attaining the 90% survival rate on the plantings. He also asked if this was a visual determination rather than an actual count.

Mr. Woolson referred Mr. Hughes question to the applicant. He stated the 90% rate was used so there would be a significant investment for keeping the installed plant material alive. He concurred that in these cases it would be a visual estimate as opposed to a Chesapeake Bay case mitigation where the actual number of trees and shrubs could be counted.

Mr. Gussman commented that the boat wake in this area was significant and contributed to the existing erosion problem.

Mr. Hughes opened the public hearing.

A. Karla Havens with Mid-Atlantic Resource Consulting, agent for the applicant, said the O'Briens had not yet selected a contractor but, she had met with some contractors on site and although the angle of the corner revetment could be softened, the purpose of the angle was to go around the existing cypress clump in this location. She added that it was a low profile structure and the waves would break over top of it as opposed to deflecting like on a bulkhead. She agreed the 90% plant survival rate was high but believed this was also the rate used by the Army Corps. She said the shading in this area might be a problem but the proposed top bank cutting would let in more sunlight and the use of beach quality sand in this project should also help the plantings survive.

Mr. Apperson asked who determined the appropriate wetland plantings.

A. Ms. Havens replied it was County Senior Watershed Planner, Michael Woolson.

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

All Board members agreed it was a necessary project.

Mr. Schmidt made a motion to adopt the resolution granting the wetlands permit for case W-14-15/VMRC 15-0679 at 7588 Uncles Neck, Parcel No. 2010200022.

The motion was approved by a 5-0 vote.

RESOLUTION
GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCEL 2010200022

WHEREAS, Karla Havens with Mid-Atlantic Resource Consulting on behalf of Michael and Maureen O'Brien (the "Applicant") has applied to the Wetlands Board of James City County (the "Board") to request a permit to use and develop in areas designated as wetlands on property identified as JCC RE Tax Parcel 2010200022 and further identified as 7588 Uncle's Neck in the River's Bend at Uncle's Neck subdivision (the "Property") as set forth in the application W-14-15/VMRC 15-0679: 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, on July 8, 2015, 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 federal, state, and local permits as required for the project.
 - 2) Prior to construction, the limits of the sill shall be re-staked in the field if necessary.
 - 3) Prior to construction, a pre-construction meeting will be held on-site.
 - 4) Prior to construction, a \$3,000 surety for the wetland plantings shall be submitted in a form acceptable to the County Attorney's office.
 - 5) The surety will be held for a minimum of one growing season after planting.
 - 6) There shall be a 90% survival rate of the planted material after one growing season or additional plantings completed to reach 90% of the original quantity prior to surety release.
 - 7) 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.
 - 8) The wetlands permit for this project shall expire on July 8, 2016 if construction has not begun. 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.


D. BOARD CONSIDERATIONS - None

E. MATTERS OF SPECIAL PRIVILEGE

Mr. Roadley thanked the applicants for using the advocated living shoreline approach.

F. ADJOURNMENT

The meeting adjourned at 7:40 p.m.



John Hughes
Wetland Board Chair



Melanie Davis
Secretary to the Board