

**JAMES CITY COUNTY WETLANDS BOARD
MINUTES
Wednesday December 9, 2015**

A. ROLL CALL

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

ABSENT

Larry Waltrip

OTHERS PRESENT

County Staff (Staff):

Michael Woolson, Senior Watershed Planner
Maxwell Hlavin, 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 November 12, 2015 Board minutes were approved as written.

C. PUBLIC HEARINGS

1. W-06-16 / VMRC 15-1506: Parsons/Dock Masters – 217 Sherwood Forest

Michael Woolson presented this request for a wetlands permit submitted by Dock Masters on behalf of the property owner, Kenneth Parsons, to install approximately 65 feet of upland riprap revetment and 360 feet of marsh toe revetment to stabilize and prevent further erosion of the marsh and bank at 217 Sherwood Forest in the Riverview Plantation subdivision, JCC Parcel Number 1730200009. Mr. Woolson described the current site conditions and the proposed construction. Staff recommended approval of the permit application with the conditions specified in the Resolution to Grant the permit.

Mr. Gussman asked if there was a previous stabilization project on the upstream property and if the marsh toe on the adjacent property added to the erosion on the current property.

Mr. Woolson said an emergency permit was issued for the upland revetment on the adjacent parcel after Hurricane Isabel. The marsh toe was also installed after the hurricane but he did not know if it added to the erosion on Mr. Parsons' property.

Mr. Hughes said it looked like part of the proposed revetment was on the adjacent property and he asked if permission was required from that owner.

Mr. Woolson agreed that permission from the adjacent owner should be a condition for granting this permit or the project could be amended to stop at the applicant's property line.

Mr. Roadley asked if the displayed photographs were taken at low tide and if staff was comfortable with the proposed alignment of the revetment based on the configuration of the existing vegetation. He also asked if the size of the proposed stone was appropriate.

Mr. Woolson said the photos were taken within a half hour of low tide. It was understood the marsh sand would refill and the vegetation volunteer as the applicant was not proposing to add sand or plantings. He said the proposed stone size matched what was in the existing revetment.

Mr. Roadley said the deflation of the shoreline was obvious.

Mr Hughes opened the public hearing.

A. Mr. Ken Parsons the property owner, thanked the Board for their consideration and stated he was available to answer questions.

Mr. Roadley asked how the revetment would be installed as heavy equipment could cause compression and one purpose of post installation inspections was be to determine if the marsh could come back.

B. Mr. Henry Thorndike, owner of Dock Masters contractor and agent for Mr. Parsons, said his equipment was fairly small with wide tracks and he would use log mats to minimize damage. He felt the impacts would be temporary at most.

Mr Hughes asked if there was a drain field on the property that could be impacted. He also asked if the neighbor had been contacted regarding the work on their property.

A. Mr. Ken Parsons explained the drain field was not in the area of access to the project. He said the adjacent neighbors no longer lived on the property but, he could contact them regarding the portion of the revetment on their property.

Mr. Gussman asked Mr. Thorndike if he thought the marsh toe on the adjacent property caused the scouring on Mr. Parsons property.

B. Mr. Thorndike believed that marsh toe actually deflected some of the wave impact to Mr. Parson's property.

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

Mr. Roadley was somewhat concerned that the proposed revetment did not match the existing toe of vegetation and it might take a while for the area to re-vegetate however, the protection was needed and he said he would support the proposal.

Mr. Hughes said the only additional requirement would be approval from the adjacent property owner.

Mr. Gussman made a motion to adopt the resolution to grant the permit for wetlands board case W-06-16/VMRC 15-1506 at 217 Sherwood Forest, Parcel No 1730200009, with the added condition of written permission from the adjacent property owner.

Mr. Roadley stated the neighbor's permission alone would not be sufficient if there was a violation of the permit on their property. He felt the neighbor needed to be a co-applicant.

Mr. Gussman amended is motion stating that the condition would be adding the adjacent property owner as a co-applicant or the permit would only be approved for the portion of the project on 217 Sherwood Forest.

The motion was approved by a 5-0 vote.

RESOLUTION
GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCEL 1730200009

WHEREAS, Dock Masters on behalf of Mr. Kenneth Parsons (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 1730200009 and further identified as 217 Sherwood Forest in the Riverview Plantation subdivision (the "Property") as set forth in the application W-06-16/VMRC JPA #15-1506; 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 December 9, 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 and approval from the adjacent parcel owner as a co-applicant for approval of the portion of the project on the adjacent property to have effect.
 - 2) Prior to any land disturbing activities, a pre-construction meeting will be held on-site.
 - 3) The limits of work shall be flagged in the field prior to the pre-construction meeting.
 - 4) A surety of \$500 shall be submitted in a form acceptable to the County Attorney's office guaranteeing the stabilization of all upland disturbance areas.
 - 5) The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures, including a turbidity curtain, for the project if field conditions warrant their use.
 - 6) The wetlands permit for this project shall expire on December 9, 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-09-16 / VMRC 15-1567: Greater First Colony /Sandy Bay Marine-marina at 94 Shellbank Dr** Michael Woolson presented this case for the Joint Permit Application (JPA) submitted by Mr Richard Schaufler, on behalf of the Greater First Colony Area Civic Association (GFCACA) for a wetlands permit to replace up to eight existing finger piers within the same footprint within the First Colony marina and to replace and extend by 7 feet an existing 'L'-shaped pier within the marina. Mr. Woolson explained that even though there are no wetland impacts within this Board's jurisdiction, the commercial nature of the application required consideration by the local wetlands board at a public hearing. Staff recommended approval of the application with the conditions specified in the Resolution to Grant the permit.

Mr. Hughes opened the public hearing.

A. Kevin Vernall with Sandy Bay Marine, contractor and agent for the project stated the project was as described by staff but, he would answer any questions the Board might have.

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

Mr. Roadley made a motion to adopt the Resolution to Grant the permit for wetlands board case W-09-16/VMRC 15-1567 at the First Colony Marina, 94 Shellbank Drive, Parcel No. 4530400001.

The motion was approved by a 5-0 vote.

RESOLUTION
GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCEL 4530400001

WHEREAS, Mr Richard Schaufler on behalf of the Greater First Colony Area Civic Association(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 4530400001 and further identified as the Greater First Colony Marina at 94 Shellbank Drive in the Greater First Colony subdivision (the "Property") as set forth in the application W-09-16/VMRC JPA #15-1567; 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 December 9, 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 December 9, 2016.
 - 3) 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

1. **Permit Extension for W-02-15/VMRC 14-1480: Trolan/Jordan Marine – 4388 Landfall**
2. **Permit Extension for W-05-15/VMRC 14-1646: Swynford/Jordan Marine – 4384 Landfall**

Michael Woolson presented the request submitted by Wilbur Jordan, contractor and agent for wetlands cases W-02-15 and W-05-15. The request was for a one-year extension of these permits through January 11, 2017. The permits are for the construction of a 98 linear foot vinyl bulkhead and 13 linear foot stone revetment on Powhatan Creek at 4388 Landfall and a 52 linear foot vinyl bulkhead and 137 linear foot stone revetment on Powhatan Creek at 4384 Landfall. The current permits will expire on January 14, 2016. Staff concurs with this request with all previous permit conditions continued and the expiration dates set at January 11, 2017.

Mr. Gussman made a motion to adopt the Resolution to Grant the permit extension for wetlands board case W-02-15/VMRC 14-1480 at 4388 Landfall, Parcel No. 4732400082.

The motion was approved by a 5-0 vote.

RESOLUTION

GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCEL NO. 4732400082

WHEREAS, Mr. Wilbur Jordan on behalf of William and Lori Trolan, (the "Applicant") has requested an extension of the permit granted by the Wetlands Board of James City County (the "Board") on January 14, 2015. The permit is to use and develop in areas designated as wetlands on a parcel of property identified as JCC RE Tax Parcel No. 4732400082 and further identified as 4388 Landfall Drive in the Landfall at Jamestown subdivision (the "Property") as set forth in the application W-02-15/VMRC14-1480; and

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

NOW, THEREFORE, having conducted a public hearing on January 14, 2015 and pursuant to the current request for an extension, 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:
 - The applicant must obtain all other necessary local, state, and/or federal permits required for the project.
 - Surety of \$1,000 will be required to guarantee stabilization of upland portion of project.
 - Prior to construction, a pre-construction meeting will be held on-site.
 - 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.
 - The wetlands permit for this project shall expire on January 11, 2017. 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.

Mr. Apperson made a motion to adopt the Resolution to Grant the permit extension for wetlands board case W-05-15/VMRC 14-1646 at 4384 Landfall, Parcel No. 4732400081.

The motion was approved by a 5-0 vote.

RESOLUTION

GRANTING A WETLANDS PERMIT ON JCC RE TAX PARCEL NO. 4732400081

WHEREAS, Mr. Wilbur Jordan on behalf of Mr. Agnew Swynford, (the "Applicant") has requested an extension of the permit granted by the Wetlands Board of James City County (the "Board") on January 14, 2015. The permit is to use and develop in areas designated as wetlands on a parcel of property identified as JCC RE Tax Parcel No. 4732400081 and further identified as 4384 Landfall Drive in the Landfall at Jamestown subdivision (the "Property") as set forth in the application W-05-15/VMRC14-1646; and

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

NOW, THEREFORE, having conducted a public hearing on January 14, 2015 and pursuant to the current request for an extension, 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:
 - The applicant must obtain all other necessary local, state, and/or federal permits required for the project.
 - Prior to construction, a pre-construction meeting will be held on-site.
 - 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.
 - The wetlands permit for this project shall expire on January 14, 2017. 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.

E. MATTERS OF SPECIAL PRIVILEGE

1. Presentation on Living Shorelines – Mark Eversole, VMRC

Mr. Eversole's presentation included information on the development of the living shoreline general permit. He described the purpose, specific criteria, conditions and application procedures for a "Living Shoreline Group 1 General Permit for Certain Living Shoreline Treatments Involving Tidal Wetlands" as outlined in Chapter 4VAC20-1300 of the Virginia Administrative Code. He explained that upon acceptance of a living shoreline application, local wetlands staff and VMRC would have 21 days to approve or deny this type of permit for any reason by invoking a 'kick out' clause and processing the application through the normal public hearing process.

Mr. Roadley asked what percentage of applications might fall into the acceptable 'living shoreline' category.

Mr. Eversole said so far it was slow to catch on and only 2 of these permits had been issued in the past 3 or 4 months.


Mr. Gussman asked if the Wetlands Board would be notified when these permits are issued and if the projects would be inspected for compliance.

Mr. Eversole said there was nothing in the permit that required compliance inspections however, inspections could be done by the local wetlands staff when the projects are completed and again after the first and second year monitoring reports are submitted.

Mr. Woolson stated that staff would advise the Board when these permits are issued.

F. ADJOURNMENT

The meeting adjourned at 7:55 p.m.



John Hughes
Wetland Board Vice Chair



Melanie Davis
Secretary to the Board