

**JAMES CITY COUNTY WETLANDS BOARD  
MINUTES  
October 14, 2009 - 7:00PM**

**A. ROLL CALL**

John Hughes - Chairman  
David Gussman  
Larry Waltrip  
William Apperson  
Richard Mason – Alternate

**ABSENT**

Terence Elkins

**OTHERS PRESENT**

Elizabeth Murphy - 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 August 12, 2009 Board minutes were approved as written.

**C. PUBLIC HEARINGS**

**1. W-01-10/VMRC 09-1044 – Kittelberger – 1812 Cypress Isle**

Mr. Menichino presented the following case:

Mr. Daniel R. Winall of Water's Edge Construction, Inc., on behalf of Larry Kittelberger, 4 McVickers Lane, Mendham NJ, applied for a wetlands permit for a project to add approximately 50 linear feet of class 3 riprap to an existing breakwater to raise its elevation, install approximately 60 linear feet of class 3 riprap to extend a second existing breakwater on the east side of the project, and install 13,680 sqft of sand fill beach nourishment to enhance the existing sand beach along shoreline, at 1812 Cypress Isle, Governor's Land. This property is located adjacent to the James River and is further identified by James City County Real Estate as PIN # 4321400010.

Environmental Division Staff (Staff) along with the VMRC representative visited the site on August 9, 2009 and August 24, 2009 to review the proposed project scope and potential impacts. Proposed impacts for the beach nourishment phase are determined to be 2348 sqft to vegetated Brackish Water Mixed Community Type XII and 11,332 sqft to non-vegetated Type XIII Intertidal Beach Community. Proposed impacts for the breakwaters are determined to be 375 sqft to the Type XIII Intertidal Beach Community, and 1,125 sqft to subaqueous bottom. The project will involve impacts to vegetated jurisdictional wetlands, subaqueous bottom, and non-vegetated wetlands as well as upland areas not within the Wetlands Board's jurisdiction

The applicant proposes onsite mitigation for the proposed 2,348 sqft of impacts to vegetated Brackish Water Mixed Community Type XII that offers the reestablishment of 750 sqft of *Spartina alterniflora* and 1,798 sqft of *Spartina patens*, (2) Marsh Hibiscus, and (2) High Tide Bush.

Staff recommended the Board grant the permit with the following conditions:

1. The Wetlands Mitigation Plan shall be revised to show 750 sqft of *Spartina alterniflora* planted on 1.5' centers and 1,798 sqft of *Spartina patens* planted on 1.5' centers. It shall also show 550 sqft of *Spartina alterniflora* planted on 1.5' centers, in the area of the *Phragmites* removal. The required quantity of Hibiscus and High Tide Bush plantings will be determined by the amount impacted during the beach nourishment phase of the project.
2. Implementation of the Wetlands Mitigation Plan requiring the installation of *Spartina patens*, *Spartina alterniflora*, and other plant material, shall be guaranteed by a surety in the amount of \$10,000.00, in a form acceptable to the Environmental Division and County Attorney. All surety must be submitted and approved prior to the preconstruction meeting. The surety will be held for one complete growing season following the mitigation planting to guarantee the plant survivability.
3. An RPA Buffer Restoration Plan may be required if impacts to the RPA buffer occur during construction. If restoration is required any surety posted shall be held until the RPA buffer is satisfactorily restored as per County requirements.
4. The limits of clearing and construction shall be flagged and all safety and tree protection fencing installed in the field, prior to the preconstruction meeting.
5. A turbidity curtain for this project is required and shall be installed prior to the onset of the beach nourishment phase.
6. This permit shall expire October 14, 2010. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to this expiration date.

Mr. Gussman asked why changes were proposed to existing breakwaters.

Mr. Menichino relayed his observations that the breakwater to be raised had settled and the other was being extended to the shoreline to prevent sand escaping from behind it.

Mr. Mason asked how the \$10,000 surety was calculated and if it was sufficient. He also asked about sand loss in the area.

Mr. Menichino stated the calculation is based on \$4/sqft for wetlands plants. The surety is only for the required plantings not for wetlands compensation which would be \$12/sqft. He stated there was some movement of sand but not a lot of loss or shoreline erosion.

Mr. Hughes opened the public hearing.

**A.** Danny Winall, Waters Edge Construction, stated there was lateral movement of sand along this shoreline and the owner stated he had lost a great deal of sand over the past 4 or 5 years. The proposed enhancements to the breakwaters should prevent this. He also stated the removal of the invasive *Phragmites* and replacement with *Spartina alterniflora* would improve the area.

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

Mr. Apperson made a motion to adopt the resolution granting the wetlands permit for case # W-01-10/VMRC-09-1044.

The motion was approved by a 5-0 vote.

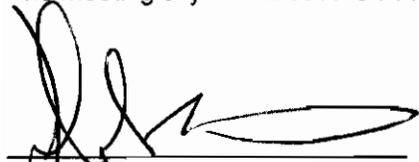
**D. BOARD CONSIDERATIONS - none**

**E. MATTERS OF SPECIAL PRIVILEGE**

The Board was reminded the next meeting was scheduled for Thursday, November 12, 2009 and that they would be approving the 2010 calendar and electing officers at that meeting.

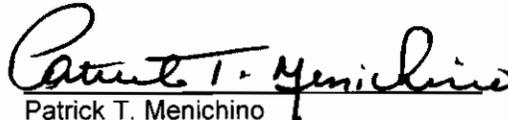
**G. ADJOURNMENT**

The meeting adjourned at 7:15 PM.



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John Hughes  
Chairman



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Patrick T. Menichino  
Secretary