

**WETLANDS BOARD  
MINUTES**

**NOVEMBER 13, 2002 - 7:00PM**

**A. ROLL CALL**

**ABSENT**

Henry Lindsey  
Philip Duffy  
David Gussman  
William Apperson

Larry Waltrip

**OTHERS PRESENT**

Darryl E. Cook, Secretary to the Board  
Ben Stagg, VMRC  
Environmental Staff

**B. ELECTION OF OFFICERS FOR YEAR 2003**

As the Board did not object, Mr. Lindsey moved this item to the end of the meeting.

Mr. Duffy inquired into the status of case W-17-02, Mr. G. Frank Stertz at 8503 Hicks Island Road. This case had been deferred at the September 18, 2002 Board meeting.

Mr. Rudnicky responded that Mr. Stertz was not sure how he was going to proceed at this time and requested staff place it on hold. The case has not been withdrawn.

**C. MINUTES**

The September 18, 2002 minutes were approved as presented.

**D. OLD BUSINESS - None**

**E. PUBLIC HEARINGS**

1. W-27-02: James King & Jerre Brumbelow – 7200 Canal Street

Mr. Rudnicky presented the case stating that Mr. Daniel Winall, of Water's Edge Construction, on behalf of Mr. James King and Ms. Jerre Brumbelow, had applied for a wetlands permit to install approximately 114 linear feet of timber bulkhead to protect real property and for a future boatlift. The property is further identified as parcel (9-26) found on the James City County Real Estate Tax Map (19-1). The project site in question is located on a man-made canal immediately adjacent to Chickahominy River.

Environmental Division staff visited the site on August 9, 2002, to evaluate the project scope and potential impacts. Proposed wetlands impacts for this project, as determined by

a VIMS representative, are determined to be approximately 114 sq. ft. to Freshwater Mixed Community (Type XI) and 342 sq. ft. to Sand/Mud Mixed Flat Community (Type XV). Total wetlands fill for this project is determined to be 456 sq. ft.

It is the staff's recommendation that the Board approve this application, with the following conditions:

1. The limits of construction shall be flagged in the field prior to the preconstruction meeting.
2. The location of the bulkhead shall be staked in the field prior to the preconstruction meeting.
3. A preconstruction meeting will be held on-site prior to construction. The bulkhead shall be placed as close to the existing scarp as feasible, shall be as straight as feasible, and shall be at the same height as the adjacent bulkheads. Minor adjustments to the location of the bulkhead may be made during the preconstruction meeting.
4. Filter fabric shall be used behind the proposed bulkhead. Tieback locations are to be marked in the field. An inspection by an Environmental Division staff member of the filter fabric and tiebacks must occur prior to commencement of backfilling operations.
5. The permit shall expire November 13, 2003.
6. 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 expiration date.

Mr. Duffy inquired if King and Brumbelow were the owners and asked if the trees were to be preserved.

Mr. Rudnicky stated they were the owners, however they did not live there. He also stated that he had spoke to the occupants and they indicated the trees would be preserved.

Mr. Lindsey opened the public hearing.

A. Mr. Daniel Winall, Water's Edge Construction, approached the Board and asked if they had questions regarding the case.

Mr. Duffy questioned why the bulkhead was needed as boat traffic moved at minimal speed and there was no major erosion. He also asked about the placement of the bulkhead in conjunction with adjacent lots.

Mr. Winall responded that the bulkhead was closer to mean high water and set farther back than the adjacent lots. He also stated that boats moved through the canal at a speed that caused just enough wake to cause erosion.

In response to a question from Mr. Lindsey, Mr. Winall stated that the red flags on site did indicate the location of the bulkhead, however he would try to align the bulkhead to be more in line with adjacent properties.

Mr. Duffy referred to Page 6 of the Joint Permit Application and inquired if the adjacent property owners had been notified and their responses received.

Mr. Winall stated that he did not have their acknowledgement forms.

Mr. Duffy stated that he did not believe these owners were notified. He felt that if they had received the notification, they would have acknowledged it.

Ms. Etchberger explained to the Board that James City County, by law, notifies each adjacent property owner 21-23 days prior to a public hearing. It is seldom that an adjacent property owner acknowledges receipt of the notice. If the notification did not get delivered, the letter is returned back to the office, specifying why it could not be delivered. She also stated that the notice is printed in the Virginia Gazette twice, one and two weeks prior to the meeting.

Mr. Duffy stated that he was sensitive to the fact that adjacent property owners are not being notified. He stated a project had been built behind his house, which he never received notice about, otherwise he would have made an appearance and he would have stated his opposition to it.

Mr. Gussman inquired if complaints had been received from adjacent property owners regarding notification of public hearings.

Ms. Etchberger responded that she had not received any complaints regarding this issue.

Mr. Gussman requested staff notify the Board if they receive complaints of this nature.

Mr. Duffy asked Mr. Winall how long it would take him to complete the project.

Mr. Winall responded he would have it done within one week.

As no one else wished to speak on the case, Mr. Lindsey closed the public hearing.

Mr. Duffy stated the project should be done to conform to the rest of the bank.

Mr. Lindsey stated the canals had been there 30 to 40 years and you could see the erosion in various stages along the banks.

Mr. Gussman made a motion to approve case W-27-02 with staff's recommendations.

The motion was approved with a 4-0 vote.

**F. NEW BUSINESS - none**

**G. MATTERS OF SPECIAL PRIVILEGE**

Calendar Year 2003 Meeting Schedule

The Board adopted the 2003 Wetlands Board Meeting schedule by a 4-0 vote, to be held on the 2<sup>nd</sup> Wednesday of each month at 7:00 PM, provided there are cases to be considered.

**B. ELECTION OF OFFICERS FOR YEAR 2003**

Mr. Gussman moved that Henry Lindsey be re-appointed as Chairman.

Mr. Duffy moved that Philip Duffy be appointed as Vice-Chairman.

Mr. Gussman moved that Darryl Cook be re-appointed as Secretary.

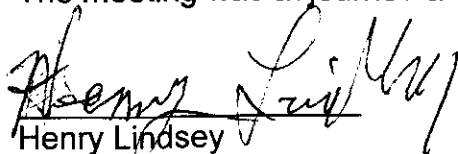
The motions were approved with a 4-0 vote.

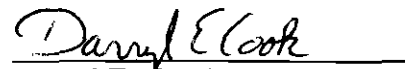
Mr. Menichino presented the Board with a letter dated October 28, 2002, addressed to McCale Development-Landfall, LLC, which was sent by staff regarding the outfall at Landfall. (This letter is attached to and part of the Minutes.)

It was the consensus of the Board not to pursue an after-the-fact permit. The County will not release the surety held on Landfall until all conditions and requirements have been met.

**H. ADJOURNMENT**

The meeting was adjourned at 7:28 PM.

  
Henry Lindsey  
Chairman

  
Darryl E. Cook  
Secretary



## DEVELOPMENT MANAGEMENT

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October 28, 2002

Mr. Lewis McMurrin, III  
McCale Development - Landfall, LLC  
729 Thimble Shoals Blvd.  
Suite 4-A  
Newport News, VA 23606

Dear Mr. McMurrin:

On October 22, 2002, a meeting was held between Mr. Ken Dodd and representatives of James City County's Environmental Division to discuss the submission of a Joint Permit Application (JPA) in the Landfall subdivision. As you know an "After the Fact" JPA was required for a riprap drainage outfall structure that had impacted Wetlands but was later removed. During this meeting Staff recommended that a field meeting be held at the project site with the JCC Wetlands Board Chairman in attendance.

On October 24, 2002 Division Staff met onsite with the Wetlands Board Chairman Mr. Henry Lindsey and discussed the JPA requirement, the drainage outfall and the installation of new riprap. Following that discussion the Wetlands Board Chairman and Staff agreed not to immediately require the submission of a revised JPA and new riprap. Instead Division Staff will closely monitor the outfall for future erosion problems. If future monitoring reveals an erosion problem then at that time a JPA will be required along with the installation of new riprap.

Please let me know if this resolution is acceptable to McCale Development - Landfall LLC. Should you have any questions please feel free to contact me at 253-6670.

Sincerely,

Patrick T. Menichino  
Environmental Inspections Supervisor

cc: Mr. Henry Lindsey  
Mr. Ken Dodd