

A (Short) History of Tabb Lakes

First Records. The first plat recorded for what would become the Tabb Lakes subdivision was recorded on January 14, 1974, by Hundley and Applewhite, Inc.¹ The plat is shown as containing 123.2052 acres of land. Almost ten years later, on September 23, 1983, the exact same plat was once again recorded, this time as part of the process of transferring title to Merchants National Bank.² The actual sale of the property to Tabb Lakes Limited was recorded on April 6, 1984.³ Eight months later, on January 10, 1985, Tabb Lakes Homes Association, Inc., was granted a charter by the Virginia State Corporation Commission. The original Bylaws and Declaration of Covenants, Conditions and Restrictions of the association were recorded on March 6, 1985. The Declaration of Covenants, Conditions and Restrictions of the Association can be found in Deed Book 412, Page 582, and is also included in each Disclosure packet.

Development Starts. Also on March 6, 1985, Cowles “Buddy” Spencer, now shown as President of Tabb Lakes Limited, recorded the plat for Section 1 of the new subdivision, encompassing 34 acres.⁴ When construction was complete, Section 1 of Tabb Lakes would contain 87 single-family homes.

Parade of Homes. Building proceeded at a brisk pace and by August, Tabb Lakes was chosen as the site of the 1985 Parade of Homes. At the time, the new homes ranged in price from \$90,000 to \$130,000.⁵ Fifteen area builders were involved in the building of the 16 showcase homes viewed by an estimated 16,000 people over the nine days of the event. “The Brookshire,” a home sitting at 308 Tabb Lakes Drive, was chosen as “Best in Show.” “The John King,” sitting at 107 Heath Place, was chosen for the “Peoples Choice Award” while the driveway of “The Cambridge” at 305 Heath Place played host to a country-western band for the event.

Work Continues. Section 2A of Tabb Lakes was recorded on February 2, 1986 and added 73 more lots to the development.⁶ The Amended Declaration of the Covenants, recorded the same day, contained a provision that set annual assessments for homeowners at \$20 for non-lakefront homes and \$40 for lakefront homes. The recording of Section 2B followed on September 4th and added another 69 homesites.⁷

Wetlands. In October 1986, after 218 homes had been built in Tabb Lakes, development came to a screeching halt. An ecologist with the Army Corps of Engineers decided that 38 acres of the still undeveloped land that Spencer and partner Richard “Dick” Ashe were clearing was protected wetlands. A permit would be needed to develop the land, they

¹ Plat Book 8, Page 448. There are also references to Deed Book 45, Page 39, and Deed Book 57, Page 27.

² Plat Book 9, Page 593.

³ Deed Book 394, Page 643.

⁴ Plat Book 10, Page 91 and 92.

⁵ In 2005, some homes sold for over \$300,000

⁶ Plat Book 10, Page 211.

⁷ Plat Book 10, Page 287.

were told. And such a permit, once applied for, would not be approved. The developers offered to develop 21 nearby acres into wetlands but the EPA came back with a counter offer that was infeasible and would have cost them nearly \$700,000. So Spencer and Ashe took the Corps of Engineers to court. The Corps tried to prove in U.S. District Court that they had jurisdiction over the issue because migratory songbirds used the wetlands (thereby becoming interstate commerce!). The court battle took a full three years, during which not a single new lot could be developed. In the end, the Court ruled that the Corps of Engineers claim of jurisdiction was not justified and this ruling was upheld on appeal. The Tabb Lakes Ltd vs. Corps of Engineers case became precedent setting. The original and subsequent court rulings now account for approximately 90% of Google “hits” for the words “Tabb Lakes.”

While waiting for the Court to reach its verdict, a plat for Section 5A was recorded on October 21, 1988,⁸ and one for Section 5B on December 29, 1988.⁹ Once construction resumed, these two sections together would bring 71 new homes to the development.

Development Resumes. Once the court case was settled, there was a flurry of activity in 1989. Sections 3A, 3B, 4A and 4B were all recorded on June 29, 1989. These four sections completed the project and added 21, 80, 11 and 39 homes respectively, bringing the total to 452 lots, 446 of which were eventually built upon. So what became of the 6 lots that didn’t become homes? Good question. One was given to York County for a Pumping Station (at the end of Bridge Wood Drive), one became the common area at the south end of Lake One, one was absorbed into the lot that became 101 Leslie Lane, etc.

Development Completed. One lot, number 283 (now 317 Bridge Wood Drive), would remain undeveloped for the next two years. It stood at the foot of Hundley Drive and provided a site for the large brick Tabb Lakes entrance sign. This final lot was sold in 1992. Once he moved into his new home, the homeowner soon petitioned the Board of Directors (in August 1993) to tear down the Tabb Lakes sign in his front yard and offered to pay to build a new sign on land near the entrance of the subdivision on Hundley Drive. This proved somewhat contentious when, after approving the request, the BOD learned that York County would only approve a new entrance sign much smaller than its predecessor. Nevertheless, work proceeded – the old sign came down and the new sign went up.

The Association “Comes Alive.” From 1985 to 1990 the Tabb Lakes Homes Association was managed by the developers, Dick Ashe and Buddy Spencer, and their lawyer, Conway Shields. There was no homeowner involvement. In October 1992, responsibility for the association was “turned over” to the homeowners and the first Board of Directors (BOD) was established. The BOD quickly determined that the assessments established in the original covenants did not allow for the creation of a meaningful budget and they began the arduous process of obtaining association approval for an increase that would allow the association to meet its financial obligations. Things

⁸ Plat Book 10, Page 605.

⁹ Plat Book 10, Page 638.

got off to a rocky start. Many homeowners didn't realize there even was an association, some questioned whether they could be legally obligated to be a member of the association and pay assessments others simply ignored reality. It took a lot of persuasion and even a legal opinion of the York County Attorney's office before things settled down. Much of the confusion was caused by realtors who did not properly explain to home buyers that Tabb Lakes was a Planned Urban Development (PUD) that was governed by a legally incorporated association, that association membership was mandatory, and that assessments were a legally binding obligation. The new Board soon learned about the requirement for "Disclosure Packets". These Disclosure Packets, purchased from the Association by the home seller, explained everything to the prospective home buyer. They contained a copy of the Covenants, Association Bylaws, Architectural Review Guidelines and other important information.

Recreational Facilities. One of the issues surrounding Tabb Lakes has been its lack of any common recreational facilities similar to those contained in other subdivisions in the area. There are no swimming pools, playgrounds, jogging paths or other such facilities. This shortcoming caused a lot of friction between the homeowners and the developers. At one time, before it was sold to the last homeowner, the BOD considered purchasing the (at that time) undeveloped lot at 317 Bridge Wood Drive with the idea of turning it into a small playground, but its exposed location, small size and the cost argued against such an approach. The developers, Ashe and Spencer, were approached by the BOD with this complaint and the result was an arrangement with the Coventry BOD to allow, for a limited time, Tabb Lakes homeowners to join the Coventry Community Pool Association and use that facility. It is not known how many Tabb Lakes homeowners took advantage of this arrangement.

The Lakes. The lakes of Tabb Lakes cover a little over twelve combined acres. Lake One, the northernmost of the two, has a depth that varies from 9-14 feet. Lake Two, on the south of Bridge Wood Drive, has a depth ranging from 3 feet to 6 feet¹⁰. Soon after their construction, both lakes were stocked with bass and other fish and early residents will recall seeing river otters and plenty of muskrats. Frogs and toads abounded. The community was even visited one year by a beaver, which cut down a few saplings before deciding this wasn't the best place to homestead. Another year, a Water Moccasin was found in someone's driveway. As more and more homes were built around the lakes, however, fewer and fewer species of wildlife were observed. Today, only a few frogs and turtles and some remaining fish constitute the vertebrate wildlife in the lakes.

The "lakes" of the Tabb Lakes are, in actuality, storm water retention ponds. This becomes obvious after any good rain, as the lake level will rise as much as a foot or more. [Hurricanes Dennis and Floyd](#), almost back-to-back hurricanes in September 1999, caused a nearly 5 foot rise in the lake level. Most of the runoff from Tabb Lakes' streets and lawns ends up in these two lakes, along with all the excess lawn fertilizer, weed killer, insecticide and whatever else people spread on their grass. In addition, the lakes are not

¹⁰ The original design depth of each lake was 6 feet. Lake Two was not constructed to its design depth.

very deep.¹¹ These two factors (fertilizer and shallow depth) combine to create ideal conditions for algae growth. Besides being odoriferous and unsightly, excess algae growth is not conducive to lake health. For this reason, our lake maintenance contractor applies an algaecide each summer when required to control this growth.

Dredging. As leaves, sediment and other organic debris enter the lakes, the lakes will inevitably fill up to the point that they no longer provide their storm runoff safety purpose. In 2000 the BOD learned that York County accepts no responsibility for maintenance of the lakes, meaning that, once the lakes fill with sediment – and they will – the Association is responsible for their dredging to keep them functional, an operation estimated to cost several hundred thousand dollars. The rate of sedimentation can be slowed, somewhat, by maintaining a high oxygen level in the lakes, which contributes to the efficient breakdown of organic material. To this end, the BOD has installed aerators in each lake (the fountains, surprisingly, contribute very little to the oxygenation effort -- their effect is largely esthetic).

Annual Assessments. As noted above, the first annual assessments of the association were set at \$20 for non-lakefront properties and \$40 for those on the lakes. When the first BOD learned that the community would be responsible for a future dredging of the lakes, it became obvious that the accumulated revenue from the assessments would not be sufficient. The Bylaws permit the BOD to assign a special assessment for such a purpose, however, to minimize the impact and size of any special assessment, the BOD began a series of CD purchases and undertook a slow but steady series of increases in the assessments in order to, hopefully, have sufficient resources to undertake the dredging when it inevitably becomes necessary. Stymied by low homeowner turnout at annual meetings that would allow the increases that were truly warranted, the Board fell back on a provision in the bylaws that provides, without need of a homeowner vote, annual assessment increases not to exceed the official CPI increase.

The Association Today. Today the Tabb Lakes Homes Association is governed by a five member Board of Directors: a President, Vice-President, Secretary and Treasurer and at least one member-at-large.¹² Initially, two directors served a one-year term, two served two year terms and one served a three year term. From that point on, new directors serve two-year terms. In addition, Committees overseeing Architectural Review, Covenants Review, Emergency Response, Neighborhood Watch, Grounds Maintenance, Lakes Maintenance, Stormwater, Newsletter and Welcoming are convened to help manage the affairs of the Association. A Webmaster maintains the Association's informative website. Every homeowner becomes a member of the association by virtue of purchasing a homesite in the community and thereby becomes subject to the provisions of the Covenants, Conditions and Restrictions as well as annual assessments. New homeowners are required by law to be provided with Disclosure Packets that relay important information about the Association and the obligations and responsibilities of all homeowners.

¹¹ In fact, Lake Two was not originally dug to the required depth before being signed off by the county inspector.

¹² The Bylaws set no upper limit on the composition of the Board.