NEW KENT COUNTY
WETLANDS/BEACHES & CHESAPEAKE BAY BOARD MEETING
THURSDAY, APRIL 7, 2016 AT 6:00 PM
COUNTY ADMINISTRATION BUILDING BOARD ROOM
MINUTES

A MEETING OF THE NEW KENT COUNTY CHESAPEAKE BAY PRESERVATION BOARD WAS HELD ON THE 7TH DAY OF APRIL IN THE YEAR TWO THOUSAND SIXTEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: ROLL CALL

Attendance:

Mr. Paul Davis	Present
Ms. Jean Street	Absent (*Arrived at 6:08PM*)
Mr. Lyle Gleason	Present
Mr. John Bragg	Present
Mr. Wakie Howard	Present

Also present:

Mr. Matt Smolnik, Community Development Director
Mrs. Connie Bennett, Professional Engineer
Mrs. Gail Carey, Administrative Assistant, Environmental Department
Mr. Clay Smith, Applicant
Mr. Michael T. Lundberg, Applicant
Ms. Karla Havens, Mid-Atlantic Resource Consulting
Mr. Randy Owen, VMRC

The meeting was called to order at 6:00 PM and a quorum was established.

IN RE: DECLARATION OF POLICY FROM THE LAWS OF VIRGINIA

Chairman Bragg read the declaration of policy from the laws of Virginia relating to the Marine Resources of Virginia and the New Kent County Code relating to Chesapeake Bay regulations.

IN RE: APPROVAL OF MINUTES

A motion was made by Mr. Davis and seconded by Mr. Gleason to approve the February 4, 2015 meeting minutes.

The members were polled:

Mr. Paul Davis	Aye
Ms. Jean Street	Absent
Mr. Lyle Gleason	Aye
Mr. John Bragg	Aye
Mr. Wakie Howard	Aye

The motion carried with a 4:0:1 vote.

IN RE: NEW BUSINESS VMRC 2016-0344

Application **VMRC 2016-0344**: Mrs. Connie Bennett presented her staff report on application VMRC 2016-0344, submitted by Mr. Michael T. Lundberg and Carolyn A. Watts, to construct approximately 130 feet of quarry stone revetment and installation of a 10 foot by 14 foot floating 'Sport Port' kayak platform at Tax Map#52A3-2-58, GPIN#B26-0434-2100. Mrs. Bennett confirmed to the board that very little vegetation, within the RPA, would be removed. The RPA contains mostly scrub and maybe one (1) or two (2) trees.

Ms. Havens added Mr. Donald Hicks would be the contractor on the project and she did not think there would be any other removal of trees other than the one (1) mentioned. Ms. Havens stated that the vegetation on the back of the bank is almost viny, undercut and nothing appears to be underneath – the vines hang out and extend over towards the water, not much grading proposed. Any grading would be to remove the viny vegetation, dig the toe, place filtercloth – not any real grading since it is a bluff lining.

Mrs. Bennett continued with the Staff Report. The project is a straight forward project. The applicant has a developed lot landward and is proposing to protect the lot along the creek. Mrs. Bennett added that this type of project is not unusual- the Board has historically reviewed and approved similar projects.

Mrs. Bennett presented the available options to the Board. Option 1 would be the use of rip rap revetment -this option is proposed for use on the project. Option 2 included the use of a wooden bulkhead. Option 3 included a Living Shoreline – Mrs. Bennett said that this option would not be warranted due to the shade in the area. Mrs. Bennett mentioned that the first option, rip rap revetment, would provide protection from wave energy and counterbalance the weight of the new bank.

Upon review of the photos from the project site, Mr. Davis and Mr. Bragg noted that the tree which is leaning appears to not be far from failure and should be removed – this was added as a part of the permit construction piece.

Mr. Lundberg mentioned when looking at the trees on site, there is a tree (with a four-inch diameter) closer to the dock that, when Mr. Hicks brings the equipment on site, may need to be removed since the equipment will be brought across the location of the tree. Mr. Lundberg added that Mr. Hicks will certainly do everything possible to save everything he can.

Mr. Bragg asked if anyone had any questions or would like to add any comments. No one had any questions or comments pertaining to the application.

At 6:15PM the hearing was open to the public. Again, no one had any questions or comments pertaining to VMRC 2016-0344. Mr. Davis made a motion to approve the application VMRC 2016-0344 as proposed. Mr. Howard seconded the motion.

Mr. Bragg noted that the motion has been appropriately moved and seconded and the Board was polled. The Board members were polled and the motion was passed.

IN RE: NEW BUSINESS VMRC 2016-0352

Application **VMRC 2016-0352**: Mrs. Bennett informed the Board that the second application, VMRC 2016-0352, was located in the same subdivision on the Chickahominy River and presented pictures taken from the dock area. The project will require the land to be graded back due to the slope.

Mr. Davis inquired if the applicant's neighbors have rip rap. Mr. Clay Smith, the applicant, confirmed to Mr. Davis and the Board that his neighbors currently do not have rip rap. Mr. Smith said that one neighbor has bulkhead and some rip rap in the corner which does come onto his property and the other neighbor has property basically similar to his own.

Mr. Bragg inquired with Mr. Smith if there would be a problem merging the two properties together.

Mr. Smith replied he did speak with the owner/neighbor (without bulkhead and rip rap) and was told he could slope some of that neighbor's bank down. Mr. Smith also mentioned that he has spoken with several contractors who told him if the neighbor's bank was not sloped down it would be difficult to match up going towards the neighbor's property. Also, if Mr. Smith's neighbor allowed him to slope his bank slightly, it would be a much smoother transition – the neighbor agreed to this action if necessary.

Mr. Bragg inquired what the Staff's Recommendation would be for this project.

Mrs. Bennett presented the Staff Report and presented the options which included: Proposed Riprap revetment; Wooden Bulkhead; Living Shoreline, which Mrs. Bennett stated would not be conducive to this particular project.

Mrs. Bennett replied that it may be possible to tie into the neighbor's property.

Mr. Smith said that the neighbor's bank was very similar to his own and to the side of the property stake is a large pine tree which is already leaning – this was a part of the recommendation by one of the contractors who stated that the tree is eventually going to fail, however, the tree is not located on Mr. Smith's property.

Mr. Smith mentioned that he (Mr. Smith) could just go out from his own property line and grade it back. However, it was noted to Mr. Smith by several contractors that it would be an easier transition if the bank was sloped slightly past his own property line and to cut the tree down a bit would help to make it an easier transition.

Mrs. Bennett added that a part of the permit was to grade the bank to smooth it.

Mr. Bragg suggested making a condition of the permit that this grading be a part of the permit application and the applicant has to demonstrate this prior to beginning.

Mr. Davis asked Mr. Bragg to clarify what Mr. Bragg was asking of the applicant to take care of.

Mr. Bragg replied that the applicant would need to take care of the smooth transition.

Mr. Smith added that his concern was his neighbor did not live in the property full time and he experienced some difficulty obtaining his signature on the Adjacent Property Owner form – not that the neighbor had objections, it was just a matter of obtaining a signature.

Mr. Owen inquired if this matter was regarding grading of the bank landward.

Mr. Bragg mentioned that this was not a timber bulkhead, but rip rap.

Mr. Owen stated that he thought he heard Mr. Smith state he had his neighbor's permission to taper the bank back onto his neighbor's property, and no mention of extra rock, just grading.

Mr. Smith confirmed it was just grading.

Mr. Owen questioned if the grading of the bank is something in the Wetlands Board authority or in their authority as a Chesapeake Bay Board. Mr. Owen said as long as the applicant was able to have everything correct with the county regarding the Land Disturbance Permit, as well as, Erosion and Sediment controls, the Wetlands Board did not have authority over the grading of the bank.

Mr. Gleason added to Mr. Owen's statement by stating as long as no rock went onto the neighbor's property.

Mr. Owen continued and mentioned if Mr. Smith touches the bank, shallow to mean high water – the Wetlands Board does have authority. This property has a non-vegetative shoreline and the applicant has requested to place rock a few feet into the Wetlands Board jurisdiction.

Mr. Bragg mentioned that his two concerns were the following: the safety of the neighbor's bank; and the liability if bank not graded and it was approved.

Mr. Smith informed the Board that the neighbor had mentioned to him that he would like to do something with his property and was going to contact Mr. Hicks to have him look at the property – Mr. Smith was unaware if this was something the neighbor wanted to invest in.

Mrs. Bennett mentioned it appeared the neighbor's property did extend out a little bit more and the rip rap could tie into the edge of the property and it might be possible to grade the bank to obtain a slope.

Mr. Smith stated that the neighbor's bank would obviously not be graded down as much as his own bank – just a little smoother transition. Mr. Smith said he did meet and speak with the neighbor and asked him if he (the neighbor) would object to Mr. Smith sloping the bank down a little bit for a smoother transition – the neighbor said this would be fine.

Mr. Bragg asked Mrs. Bennett for suggestions regarding Erosion and Sediment controls.

Mrs. Bennett suggested place matting on the slope after grading to pull the slope into place, shape it and then tie it in.

Mr. Bragg inquired if the neighbor would have any objections to signing off on it.

Mr. Smith stated that he did not think the neighbor would object, since it would also help his property.

Mr. Bragg suggested for the Board to default to the county and have Mr. Smith obtain a Land Disturbance Permit (LDP). Mr. Smith also said that the leaning pine tree will be removed as a part of the slope reduction, since it appears that it would most likely topple.

Mr. Gleason noted that the pine tree was located on the neighbor's property.

Mr. Smith acknowledged that the tree was located on the neighbor's property. However, he also stated that the neighbor had previously given him permission to remove the tree.

Mrs. Bennett suggested to Mr. Smith that he may want to consider having signed off in writing which authorizes him to remove the tree.

Mr. Bragg confirmed to Mr. Smith that in order to reduce the slope, it will be necessary to remove trees on his own property and that it will be necessary to replace the vegetation associated with the slope reduction.

Mrs. Bennett stated that it would also be necessary to have a Water Quality Impact Assessment which states any trees removed will be replaced.

Mr. Bragg added that Mr. Smith will also need to obtain the easement from the neighbor, Erosion and Sediment measures (if necessary), the Water Quality Impact Assessment and a vegetative plan.

Mr. Bragg inquired if the Board or any one had inquiries pertaining to the application. Since there were no inquiries, Mr. Bragg opened the public hearing for VMRC 2016-0352. Again, there were no questions or inquiries for VMRC 2016-0352 and the hearing was closed.

Mr. Gleason made a motion to approve application VMRC 2016-0352 be approved with Option1, rip rap revetment with the property line as submitted by applicant and the jurisdiction of the Board. The motion was seconded by Mr. Davis. The Board was polled and the motion passed with unanimous approval.

IN RE:	ADJOURNMENT
6:36PM	A motion to adjourn was made at 6:36PM by Mr. Davis and all were in favor.

Respectfully submitted,

Gail Carey, Recording Secretary