



**NEW KENT COUNTY
WETLANDS/BEACHES & CHESAPEAKE BAY BOARD MEETING
THURSDAY, JULY 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 JULY 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	Present
Mr. Farrar 'Wakie' Howard	Present
Mr. John Bragg	Present

Also present:

Mr. Matt Smolnik, Community Development Director
Mrs. Connie Bennett, Professional Engineer
Mrs. Gail Carey, Administrative Assistant, Environmental Department
Mr. Jose Martinez, Applicant
Mr. Phil Wolcott, Friend of Mr. Martinez
Mr. S. Taylor Goodman, P.E., Balzer & Associates Engineer
WestRock Representatives

The meeting was called to order at 6:02 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

Mr. Bragg suggested, prior to the approval of minutes, to include the time that the Public Hearings begin and end. A motion was made by Mr. Howard and seconded by Mr. Davis to approve the April 7, 2016 meeting minutes.

The members were polled:

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

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

IN RE: NEW BUSINESS CBPA 004-16

Mrs. Connie Bennett presented her staff report on application CBPA 004-16, submitted by Mr. Jose Martinez, for a Chesapeake Bay Exception After the Fact request to construct a retaining wall and driveway at Tax Map#19-4C, GPIN#L04-3079-2597.2178-3238. Ms. Bennett mentioned the total square footage of disturbance in the RPA is 15,112 sq. ft. which is an additional 12,725 sq. ft. of disturbance in the landward portion of the RPA from the plan approved in 2012: CBPA 003-12. The 2016 WQIA submittal further states that the total impervious cover in the RPA is 9,190 sq. ft.; this is an additional 8,300 sq. ft. of impervious cover in the RPA of which 367.6 sq. ft. is in the seaward 50 feet from the plan approved in 2012. Ms. Bennett also mentioned the retaining wall and driveway were noted on a recent inspection and the property owner was notified that he would need to go to the Chesapeake Bay Board for permission to keep it. Ms. Bennett also stated that there was a limited amount of buildable area on the lot even though it was 23 acres – most of the property included the pond itself. Ms. Bennett also confirmed that the owner of the pond was Mr. Martinez. Mr. Martinez also owns the adjacent property, which includes the pond.

Mrs. Bennett confirmed to Mr. Davis that the driveway was circular and that the parking was the intent. A portion of the driveway on the side of the house is similar to a one lane driveway.

Mrs. Bennett also stated that there are piers for a deck that is proposed to be built – it is not yet built. The area for the deck involves a little more area than what was approved on the original plan. There was also a good size slope to the property prior to the retaining wall.

Mr. Davis inquired if the reason for such a large amount of gravel area was for parking. Mr. Goodman informed the Board that the single lane parking area is restricted by the property line. The lakeside of the house is really the only area where cars can be parked. Mr. Wolcott added that Mr. Martinez has several drivers in the family and there is nowhere to turnaround.

Mr. Bragg inquired if there was anything in place to collect runoff from the parking area. Mr. Goodman stated that a drain is in place underneath the gravel along the edge of the retaining wall. Once the water goes through the drain, it then goes through a perforated pipe into a mulch bed on the backside of the retaining wall in various locations.

Mr. Wolcott added that Mr. Martinez has no way to turn the vehicles around on the driveway, even with the current circular shape. Mr. Wolcott said that it is not possible for Mr. Martinez to simply drive in and back up, it will still be a three-point turn and Mr. Martinez is a sheet rock contractor who operates a very long truck.

Mr. Bragg inquired how many vehicles would Mr. Martinez park at any one time. Mr. Wolcott replied that including the work vehicle, it may be a total of four (4) vehicles. Mr. Goodman added that if Mr. Martinez has materials loaded on the work vehicle, reversing into the road would not be a viable option.

Mr. Goodman confirmed that Balzer & Associates, Inc., prepared and provided the WQIA (Water Quality Impact Assessment) for the property. Mr. Goodman also said that he had contacted Mrs. Bennett in an attempt to come up with a solution between some of her suggestions and what would be discussed during this evening's Board meeting. Mr. Goodman added that the applicant, Mr. Jose Martinez, is prepared to defer if necessary so some points on mitigation may be worked out and hopefully come up with a solution.

Mr. Goodman confirmed to Mr. Bragg that Mr. Martinez is planning to pave the parking lot. Mr. Bragg inquired if the applicant had given any thought to porous pavers, etc. Mr. Wolcott replied that at the present time, no consideration had been given to the use of porous pavers and that the applicant wanted to use concrete to pave the driveway with a broom finish. Mr. Bragg responded by saying he understood, however, he also understood there was also a need for compliance with the Chesapeake Bay.

Mr. Wolcott explained that in between the area where the columns are located (columns are 20' apart) will be an opening of about a foot toward the edge of the driveway before it reaches the retaining wall – so water will go through four (4) foot of gravel into a screened corrugated pipe. Mr. Goodman confirmed to the Board that it was not a constructed box, but gravel on the bottom with filter fabric around the box.

Mr. Wolcott explained that all gutter pipes from the roof drain so water does not shed off of the property. He added that there are basically four (4) pipes that come out in one (1) certain area near to the second column on the right, where a foundation drain is located and two (2) gutter drains and two (2) wall drains all end in relatively the same area. There are two lengths of corrugated steel pipe around the retaining wall with four (4) foot of gravel before it will filter.

Mr. Wolcott confirmed to the Mr. Davis that the house was approximately between 4,000 and 5,000 sq. ft. Mr. Davis mentioned that with a lot of surface, a lot of water (almost an acre of water) has to go somewhere so an inch or even two (2) inches of rain is a lot of water. Mr. Wolcott confirmed to Mr. Davis and the Board that no signs of erosion are

present, even with all of the recent storms. Mr. Wolcott also confirmed to the Board that it is rain, not erosion, coming out of the drain pipes.

Mr. Goodman informed the Board that he and Mr. Martinez had discussed rain gardens, as well as different types of mulching and plantings in different areas to do mitigation. With the pond being previously cleared, also place low level shrubs because of the slope and shape of the property in the corners of the property. Mr. Bragg said he did not have any problem with that proposal and would also like to see rain gardens or shrubs in that area as well to capture any rain run-off. Mr. Goodman confirmed that a mitigation plan had been submitted to the county earlier in the week which included a six (6) foot mulch area around the retaining wall as well as the mitigation from the previously approved WQIA.

Mr. Bragg opened the Public Hearing for CBPA 004-16 at 6:24PM and inquired if anyone wished to speak or comment on the application. No one cared to comment or speak and the Public Hearing was closed at 6:25PM.

Ms. Bennett then inquired if the Board was going to continue the hearing if a decision was not made tonight. Mr. Smolnik inquired if the Board wished to close the hearing and continue the hearing for application CBPA 004-16. Mr. Bragg stated that the question is does the Board think that they have enough information to go ahead and take action. Mr. Bragg also mentioned that the only issue he actually had was he did not like what they did, having extra things disturbed more than what was necessary. Mr. Bragg also stated that the Board needed to ensure that the water is captured and treated appropriately before it goes back. Also, for any encroachment to be mitigated. Mr. Bragg stated he did not feel comfortable with mitigation until the county staff has had the opportunity to review a fairly comprehensive mitigation plan. Mr. Bragg added that his understanding was that until this application was reviewed and voted on by the Board, no CO (certificate of occupancy) will be issued. At that time, Mr. Bragg inquired with the Board if they wanted to see this application continued on until August, the next meeting for the Board.

Mr. Davis questioned about the Certificate of Occupancy – was it for the grounds or the house. Both Mrs. Bennett and Mr. Bragg replied to Mr. Davis that the CO referred to the house. Mr. Davis then questioned what was delaying the applicant from moving into the house. Mr. Goodman and Mr. Wolcott informed Mr. Davis and the Board that the Certificate of Occupancy was the reason for the delay.

Mrs. Bennett offered an explanation: the retaining wall was observed by the building inspectors and Mr. Martinez did not have any permit for that – a permit is necessary. That permit was submitted this week. The deck was another item that needed a building permit. The county will not issue a Certificate of Occupancy (CO) until everything has been resolved for this since it impacts the Chesapeake Bay.

Mr. Davis suggested proposing a motion if Mr. Martinez keeps what he has with the understanding that he also submits an approved mitigation plan with the rain gardens or something to capture the amount of water before it reaches the pond.

Mr. Bragg stated that he did not have any problem with Mr. Davis' suggestion. However, he felt that the mitigation plan was not comprehensive enough to satisfy the Chesapeake Bay standards. Mr. Bragg added that he did not feel it was appropriate for the Board to select the number of trees or sizing, etc.- this would be the responsibility of the county staff (Ms. Bennett), i.e. Staff approval of mitigation, staff approval of any soil and erosion requirements.

Mrs. Bennett added that it would also be necessary for Mr. Martinez to complete a BMP (Best Management Practices) agreement.

Mr. Bragg agreed with Mrs. Bennett regarding the applicant obtaining a BMP agreement, as well as any Bond, if necessary. Mr. Smolnik added that a portion of the CO (Certificate of Occupancy) will bill to resolve the issues discussed during this hearing including requiring a guarantee that the rain gardens, etc. would be in place prior to the issuance of the CO. Mr. Smolnik also recommended a 110% surety, to include itemizing costs. Mr. Goodman replied that he felt the requirements placed on the application by the Board were acceptable.

Mrs. Bennett also recommended allowing only a turnaround area to be located at the front of the house, enough for a vehicle to turnaround and be parked up to the location of the second column inward. This would allow the applicant and drivers enough area to reverse and turn around and would be wide enough for two vehicles.

Mr. Goodman responded to Mrs. Bennett's suggestion by stating there would be a problem since there are four (4) drivers in the household – as previously mentioned, including the possibility of a temporary trailer or truck with some equipment which would also need to be turned around.

At this time, Mr. Bragg mentioned that he did not have any issue with Mrs. Bennett's suggestion and also understood Mr. Goodman's reasoning. Mr. Bragg then brought up the fact that there are other alternatives for environmental controls, asphalt and pavements. He also said that he did not have any problem with the actual location of the

driveway. However, it may also be a good idea to create an area where cars may park which would be more environmentally friendly as opposed to just rock and asphalt – such as pavers. Mrs. Bennett also added porous concrete should be considered.

Mrs. Bennett confirmed to the Board that she estimated the size of the right hand driveway to be about 4,000 sq. ft. A further discussion continued regarding the size of the parking area and the possible ways for vehicle parking. At the end of the discussion, Mr. Bragg stated he realizes there will be visitors to the home and did not take issue with excess parking. However, it would be necessary to harden the area for overflow parking with some type of permeable materials.

Mr. Bragg then made a motion to approve application CBPA 004-16, with the following requirements: All vegetation must be maintained in healthy and vigorous growth condition two (2) years following installation. Any diseased vegetation or failing to flourish must be replaced. The BMP agreement must be fulfilled including all county and state requirements, as well as soil and erosion and anything dealing with wetlands. Also, prior to any additional work, a mitigation plan is to be presented to county staff for approval which documents reduction of impermeable surface with parking and no less than allowing for hardened surface for parking of four vehicles. The mitigation plan will include provisions for a reasonable amount of parking, a reasonable amount of overflow parking – not to exceed 4,000 sq. ft. Mr. Davis then suggested for the motion regarding the parking area to be some sort of pavers, whereby water can flow through and not be concerned about specific square footage in certain areas. Mr. Davis added that the parking area should be 50 percent hardened surface and the other 50 percent to be some sort of pervious system for overflow. Also, it would be alright if pavers were to be used for the entire parking surface.

Mr. Bragg added to Mr. Davis' suggestion for 50 percent hardened and 50 percent pervious surface with 100 percent capture of any runoff so any infiltration would go into the soil.

The final motion read as follows: all vegetation to be maintained; completion of a BMP agreement; fulfill county requirements for erosion and sediment; a mitigation plan to be approved by the county detailing practices for water runoff; total parking area to be 50 percent hardened and 50 percent pervious; detail the best management practices to control any water runoff – which would be included in the rain garden plan.

The members were polled:

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

The motioned carried with a 4:0:0 vote.

IN RE: NEW BUSINESS CBPA 006-16

Mrs. Bennett presented the Staff Report for application CBPA 006-16, submitted by WestRock CP, LLC to encroach in the buffer for construction of a mass log storage system at Tax Map Parcel 27-6L, GPIN J28-3756-3881. The total lot size is 77.85 acres and is zoned industrial. There are two proposed options: option one (1) involves eight (8) encroachments throughout the site totaling 3.6 acres, as well as three (3) wetland impacts totaling 0.42 acres. The wetland impacts would require ACOE approval – this is not the preferred option. The second option has a layout that minimizes the RPA encroachment and wetland impacts. This option includes eight (8) encroachments totaling 1.99 acres, as well as three (3) wetlands totaling 0.16 acres. This is 45 percent less RPA and 60 percent wetland impact than Option 1. The wetlands impacts would also require ACOE approval. The second option is the preferred option. At the present time, WestRock CP, LLC does not own the property and the sale is contingent upon this approval. This approval could be made contingent on WestRock's ownership of the property.

WestRock CP, LLC informed the Board the acreage was 128 acres with a small perennial stream (at the crossing location is approximately four (4) feet wide) coming from under Rt. 33, also, the site is currently completely wooded.

Mrs. Bennett added that the mitigation plan is proposed in the form of retaining and reusing the stormwater onsite as part of the operations. In addition, they will supplement the water needed with reclaimed water from the New Kent Parham Landing wastewater treatment plant. No stormwater will leave the site except for extreme storm events such as the 100-year storm flows. Also, the WQIA will be submitted with the construction plans to address specific mitigation measures. Virginia Power is requiring the power extensions to be overhead and that will require additional clearing in the area.

Mrs. Bennett confirmed to the Board that WestRock CP, LLC will be using all of the water including the water leased from New Kent County. The pond, that collects stormwater which WestRock will reuse, is meant to keep a six (6) day

capacity and an irrigation system will resolve what they consider to be a 10-year storm event every day, 24 hours a day. WestRock CP, LLC added that water is the commodity and in addition the trees will be sprayed to keep them wet to assist the facility. WestRock CP, LLC continued by saying they want to keep and maintain the pond, not lose it – the pond is designed to capture everything. There will sufficient water supply from purchasing the water through the county's wastewater treatment plant.

WestRock CP, LLC confirmed to the Board that there will be only two (2) major encroachments across the street and one (1) in the wetlands area.

Mrs. Bennett then presented the Staff Finding for the application which stated Option 2 had the least impact of encroachment and was the most viable and preferred option for the site development. In addition, the WQIA be submitted prior to or with the construction drawings that mitigates the impacts to the RPA encroachments. All vegetation that is installed as mitigation must be maintained in a healthy and vigorous growing condition. Two (2) years following installation any vegetation that dies, becomes diseased, or fails to flourish must be replaced. Mr. Bragg then inquired if WestRock CP, LLC had any additional comments pertaining to the application. WestRock CP, LLC mentioned to the Board that this application was an important project for the company, primarily the West Point mill and would supply them with 100,000 tons of product a year of both mixed pine and hardwood. The project will enable the company to have the wood supply throughout portions of the year. WestRock CP, LLC added that they had considered other sites and this was the selected site because of the water supply now becoming available at the county which made it much more attractive. One reason for the decision was due to not having to drill shallow well, as well as, not using ground water. The company is trying to do the right thing environmentally and reuse as much resource as possible – the county's reclaimed water. Also, another factor was the site was located much closer to the facility and is strategically better than the other site they considered. WestRock CP, LLC said it would be a win-win for the county and the company. This project would provide revenue for the county, as well as sustain the company's operations.

Mr. Bragg and Mr. Davis inquired if the company had adequate road infrastructure to move vehicles in and out of the facility. WestRock CP, LLC replied that they have a site located just past the wood street facility that is in use today, so the trucks are already moving down that road. The current site is a dry storage facility and wood moves in and out. This particular project would store and take out the wood.

Mr. Davis inquired if the transport of the wood would be something which can be performed after rush hour, for example from 9PM until 6AM. WestRock CP, LLC reply was that this would be something that the company would need to discuss with VDOT due to the possible restrictions on what materials may be transported based on days and holidays. WestRock CP, LLC did confirm to the Board that the company had been in contact with VDOT regarding the access to the new wet storage facility.

7:00 PM, Mr. Bragg opened the Public Hearing and inquired if anyone cared to speak to the current application.

7:01 PM the Public Hearing was closed since no one was present who wished to speak.

Mr. Davis made a motion for the Board to vote and approve application CBPA 006-16 with the following conditions: approve the application based upon Option 2 which is contingent upon WestRock CP, LLC purchasing the property; applicant to comply with the WQIA requirements (WQIA to be submitted prior to or with construction drawings) and any mitigations that impacts the RPA, including vegetation that is installed, the mitigation must be maintained for the two (2) year period and replaced if it should fail. This motion was seconded by Mr. Howard. The Board was polled and the motion was carried.

IN RE: ADJOURNMENT

A motion to adjourn was made by Mr. Bragg at 7:02 PM and all agreed.

Respectfully submitted by: Gail M. S. Carey, Recording Secretary