



**NEW KENT COUNTY
WETLANDS/BEACHES & CHESAPEAKE BAY BOARD MEETING
THURSDAY, SEPTEMBER 3, 2020 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 3RD DAY OF SEPTEMBER IN THE YEAR TWO THOUSAND TWENTY IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M. IN ACCORDANCE WITH ORDINANCE 0-02-20, PARTICIPANTS HAD THE OPTION TO CONFERENCE CALL IN TO THE MEETING.

IN RE: ROLL CALL

Attendance:

Mr. Lyle Gleason	Present
Ms. Jean Street	Absent
Mr. Julian T. Ward	Present
Ms. Sarah Richardson	Absent (<i>at time of Roll Call</i>) (<i>CALL IN</i>)
Mrs. Connie Bennett	Present
Mr. John Bragg	Present

Also present:

Mr. Joshua Airaghi, Director of Environmental
Mrs. Gail Carey, Administrative Assistant, Environmental Department
Mr. Nico Talbert, Crofton Diving
Mr. Kurt Fearheller, Crofton Diving (CALL IN)

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

Mrs. Bennett requested for the addition of 'apron' to pool on page two. Mr. Ward noted that 'Mr.' should be corrected to Mrs. for Mrs. Bennett referring to the voting on the final motion located on page three. A motion was made by Mrs. Bennett and seconded by Mr. Gleason to approve the March 5, 2020 minutes with the noted corrections. The Board members were polled and the motion was passed.

IN RE: NEW BUSINESS VMRC 2020-1261

Application **VMRC 2020-1261**: Mr. Airaghi presented his staff report on application VMRC 2020-1261, submitted by Verizon Virginia, LLC, to replace an existing, damaged fiber optic communication/data cable. The cable spans under the Pamunkey River from New Kent County to the Town of West Point. The scope of the project involves using existing conduit, direct burial in the uplands, and jet-assisted plowing in both the vegetated and non-vegetated wetlands. The New Kent County Wetlands ordinance and the jurisdiction of the New Kent county Wetlands Board were created in accordance with Title 28.2, Subtitle III, Chapter 13 of the Code of Virginia. In fulfilling its responsibilities under this ordinance, the Board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation. The cable will start in the existing conduit located in uplands adjacent to the western edge of the Eltham Marsh and will be fed through this conduit,

under the Eltham Marsh Thoroughfare, to the end of the existing conduit located in uplands adjacent to the historical Route 33. The direct burial of the cable will then take place in uplands adjacent to historical Route 33, approximately three (3) feet from the existing edge of pavement. The temporary wetland impacts will be at the eastern end of historical Route 33 where direct burial changes to jet-assisted plow at the Pamunkey riverine/wetland interface.

The trenches generated from both the direct burial and the jet-assisted plow will be one (1) foot wide to allow the contractor to place the cable in the trench. The direct burial trenches will be backfilled and compacted. From speaking with the contractor, a turbidity curtain will be used adjacent to the wetland impacts to trap any sediment that enters the water.

The applicant is proposing approximately 20 ft² of vegetated wetland impacts and approximately 56 ft² of non-vegetated (mudflat) wetland impacts. The vegetated wetland impacts are in an area already dominated by phragmites. As such, a vegetation management plan was not required. This was confirmed during a joint site visit between New Kent County staff, VMRC, and the contractor Crofton Diving.

Staff Recommendations state the applicant/contractor has evaluated the various methods of installation and has chosen the least intrusive methods possible to still achieve the project goals. The alignment mirrors the existing alignment. The wetlands impacts will be temporary and minimal in nature. Additionally, phragmites already dominates the area of vegetated wetland impacts. This type of project is not unusual – the Wetlands Board has historically reviewed and approved similar projects. The original installation of the cable was approved in 2013.

Mr. Bragg inquired if anyone had questions of the county staff.

Mr. Fearheller confirmed to Mr. Airaghi that that Crofton Diving agreed to have a turbidity curtain in the river where the jet curtain is located. Mr. Fearheller also mentioned that the turbidity curtain is a typical equipment configuration. Mr. Fearheller added the construction will include jet plowing the area with a turbidity curtain in an area near the shoreline which will be temporary for several feet. This is to transition from the upland to vegetated and non-vegetated wetlands. The jet-assisted plow also has a turbidity trail behind the barge.

Mr. Bragg inquired if there were any comments or questions from the contractor.

Mr. Fearheller thanked Mr. Airaghi for explaining the application extremely well and expressed his appreciation of the summation.

Mr. Bragg again inquired if there were any questions or comments to the contractor or staff.

Mr. Gleason then mentioned that the reason for replacement is stated as 'to replace a damaged cable' and asked if anything was considered to prevent damage to the new cable so that this (replacement) will not have to be done again. Mr. Gleason also inquired if the damage was outside of the river or marsh.

Mr. Fearheller replied that the alignment will mirror just downstream of the existing cable. Mr. Fearheller said that they are also working with the Army Corps on burial depth which may be somewhat deeper than three (3) feet in the channel area. He added that the entire cable area is very clearly marked with the intent of preventing any type of activity that will damage the cable. Mr. Fearheller also said other than using the existing conduit near the shoreline where the water is

shallower and damage is most likely, they have not anticipated any additional measures to provide further protection to the cable. The burial depth itself is considered sufficient and marked from NOAA chart, as well as the signage on the river, which both indicate no anchoring, etc. in the location. Both the chart and river signage are considered most protection of a utility of this type in the area. Mr. Fearheller also added that any activity which damaged the present cable was one that was not supposed to be undertaken in that particular area.

Mrs. Bennett asked Mr. Fearheller if it was known how the damage was caused.

Mr. Fearheller replied it was suspected to be construction activity in the area being conducted on a marine construction barge that used 'spuds' to pin to the river bottom. Mr. Fearheller added that although the 'spuds' may have been dropped away from the cable, most likely the currents dragged the barge, including the spuds, to the location of the cable.

Mr. Bragg inquired if what was just described would be considered an unavoidable situation or perhaps by placing the cable deeper would have mattered.

Mr. Fearheller stated that the situation would be considered as unavoidable since the spuds drag very deep. Mr. Fearheller added that the cable's burial depth would need to be up to 20 feet in order to avoid a spud.

Mr. Bragg stated that he understood.

Mr. Fearheller confirmed that if good care is taken, it should not be an issue.

Mr. Fearheller added the as-built drawings that will be generated from the installation will be sent to both the Army Corps and NOAA. He also noted the installation will fall within the existing cable area and marked the same.

Mr. Bragg again inquired if there were any other questions or comments from staff or to the contractor.

Ms. Richardson noted the schedule for this repair was ASAP (as soon as possible) and then inquired if that meant the project would begin in September 2020.

Mr. Fearheller replied that other than the permit activity, there are some other activities that would have to be undertaken to get the project started and said perhaps a September start date may be considered as a little too aggressive. The cable for repair is in place and operational. Since the schedule for repair falls just outside of 'emergency' a starting date later into the fall will be considered.

Mrs. Richardson then mentioned the possibility of bald eagles in the project area and inquired about the knowledge of any existing nests.

Mr. Fearheller stated that an investigation was currently underway by the Army Corps, Game and Inland Fisheries, Endangered Species, as well as several other agencies regarding any existing bald eagle nests in the project location. Mr. Fearheller added that based on his construction experience,

he was aware that a search of local eagle nests is vitally important to the activity and any nearby nests will be identified. He also mentioned that if any nests fall within the radius of construction, the construction activities will need to be delayed until the time of year restrictions expire. Mr. Fairheller also stated that this would also be included in the Army Corps review of the project.

Mrs. Richardson asked about the duration of the project.

Mr. Fearheller replied generally, the construction activity of upland activities would probably be two (2) weeks and the inward plowing, probably another two (2) weeks. Most likely a total of 30 days worth of construction activity.

Mrs. Richardson added she noted the breeding activity for bald eagles is during most of the year, specifically from October 15 through August 31. Mrs. Richardson then questioned, given that time frame, did the applicant think this project would work out.

Mr. Fearheller confirmed to Mrs. Richardson that they had previously worked within those time restrictions. He added given the current status of the existing utility and the possibility of any time of year restrictions, it would be possible to plan construction activities to occur after any imposed restrictions. Also, if it means a transfer of services to another fiber (due to possible time of year restrictions for wildlife species in the project location), then certainly Verizon will tolerate that so the construction activities fall outside of any of the vital time of year restrictions.

Mrs. Richardson thanked Mr. Fairheller for the clarifications.

Mr. Bragg asked if there were any further questions or comments. Since there were no further questions or comments, Mr. Bragg requested a motion.

Mr. Gleason moved to approve application VMRC 2020-1261 for the installation of a new fiber optic data cable across the Pamunkey River and Eltham Swamp according to the application, including the addition of the use of a turbidity curtain.

Mrs. Bennett seconded Mr. Gleason's motion to approve.

The members were polled.

Mr. Gleason	Aye
Mr. Ward	Aye
Ms. Richardson	Aye
Mrs. Bennett	Aye
Mr. Bragg	Aye

The motion was passed 5:0:0 and the application VMRC 2020-1261 was approved.

IN RE: ADJOURNMENT

A motion to adjourn the meeting was made at 6:22PM and all were in favor.

Respectfully submitted,

Gail Carey, Recording Secretary