

Commission Meeting

**18904
February 22, 2022**

Daniel Faggert
Ben Stagg
Andrew Button

Surveyor, Engineering/Surveying
Chief, Shellfish Management
Deputy Chief, Shellfish Management

Virginia Institute of Marine Science (VIMS):

Lyle Varnell
Kacey Hirshfeld

Emily Hein
Rachael King

Mark Luckenbach

Others present:

Robert Jessen
Doruss Stephens
William Pappas
Tom Pitam
Jacob Boltz
Dan Knott
Kathie Angle
and others.

Cheryl Duffey
John Blankenship
Joseph Scott
Jim Wetherbee
Jim Boltz
Mark McElrom
Jim Wetherbee

Depue Duffey
Tyler Rowe
J. C. Hudgins
Christine Conrad
Scott Griffith
Travis Davis
Marc Brown

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Acting Commissioner Worrell called the meeting to order at approximately 9:32 a.m.

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Associate Member France led the pledge by the request of Acting Commissioner Worrell. Associate Member Tankard said the invocation.

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APPROVAL OF AGENDA. – Acting Commissioner Justin Worrell asked if there were any changes from the Board members or staff.

Associate Member Zydron moved to approve the agenda as presented. Associate Member France seconded the motion. The motion carried, 6-0. Chair voted yes.

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MINUTES: Acting Commissioner Worrell asked if there were any changes or corrections to be made to the January 25, 2022 Commission Meeting minutes.

Associate Member Zydron moved to approve the minutes as presented. Associate Member Tankard seconded the motion. The motion carried, 6-0. Chair voted yes.

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Acting Commissioner Worrell swore in the VMRC staff and VIMS staff that would be speaking or presenting testimony during the meeting.

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2. **PERMITS** (Projects over \$500,000.00 with no objections and with staff recommendation for approval).

Randy Owen, Chief, Habitat Management, reviewed the Page 2 Items A and B for the Associate Members. Mr. Owen’s comments are a part of the verbatim record.

2A. NORFOLK DEPARTMENT OF PUBLIC WORKS, #21-1791, requests authorization to demolish the existing culvert and replace with 150 linear feet of two (2) 6-foot wide by 4-foot high concrete box culverts, with concrete wingwalls and riprap at each end of the Granby Street crossing of Oastes Creek in the City of Norfolk.

Fees:	\$ 600.00
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2B. ADVANSIX RESINS & CHEMICALS, LLC, #22-0102, requests authorization to remove existing fender piles and install 44 new concrete piles, including 11 new foam fenders, as part of the upgrade to the fender system adjacent to the existing industrial pier serving 905 E. Randolph Road, situated along the James River in the City of Hopewell. Staff recommends approval with a special condition requiring the implementation of noise/vibration mitigation techniques including cushion blocks, bubble curtains and soft start practices during pile driving

activities. No instream work or pile driving shall occur between February 1st and April 1st of any year, to protect anadromous fish species, without written approval from the Virginia Institute of Marine Science.

Fees:	\$ 600.00
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No one spoke in support or opposition of the projects.

The matter was before the Commission for discussion and action.

Associate Member Tankard moved to approve the page 2 Items A and B as presented. Associate Member Ballard seconded the motion. The motion carried 6-0. Chair voted yes.

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3. CONSENT AGENDA ITEMS. – No Consent Agenda Items.

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4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. – No meeting needed

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5. PUBLIC HEARING: Proposal to amend Chapter 4 VAC 20-1180-10 et seq., “Pertaining to Fishing Guides”, to 1) define existent freshwater/saltwater delineation lines, 2) clarify language for license qualification requirements, and 3) establish penalties. The Commission also proposes to repeal Chapter 4 VAC 20-1150-10 et seq., “Pertaining to Charter Boat and Head Boat Fisheries”.

Somers Smott, Fisheries Mgmt. Specialist, gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Ms. Smott’s comments are a part of the verbatim record.

Ms. Smott explained that the charter industry operates in the tidal saltwater rivers of Virginia, but there has never been a clear license line between the Virginia Marine

Resources Commission (VMRC) and the Department of Wildlife Resources (DWR). This has led to uncertainty for charter captains on which agency licenses are required for legal operation in these areas.

For recreational fishing licenses, DWR and VMRC define a recreational saltwater/freshwater license line in the Potomac, Rappahannock, Piankatank, York, and James Rivers. For the purposes of enforcement and education, staff recommends applying the same delineation of the recreational saltwater/freshwater license line in these rivers for all charter licenses, with one difference. Both freshwater and saltwater recreational fishing licenses are accepted in the tributaries below the license line. However, VMRC charter licenses will continue to be required for the for hire industry in all waters below the recreational license line, including the tributaries. That is, if a captain is operating a for hire business below the saltwater/freshwater license line in one of the listed rivers or tributaries, they are required to hold the proper for hire licenses from VMRC. If they are operating above the saltwater/freshwater license line, they will fall under the license requirements of DWR. This is the way VMRC and DWR enforcement has historically operated in these areas; the addition to regulation is only a means of clarification for our constituents.

Staff recommends the Commission approve amendments to Chapter 4 VAC 20-1180-10 et seq., "Pertaining to Fishing Guides", to 1) define existent freshwater/saltwater delineation lines, 2) clarify language for license qualification requirements, and 3) establish penalties. Staff also recommends repealing Chapter 4 VAC 20-1150-10 et seq., "Pertaining to Charter Boat and Head Boat Fisheries".

The matter was before the Commission for discussion and action.

Associate Member France made a motion to approve staff recommendation. Associate Member Ballard seconded the motion. The motion carried, 6-0. Chair voted yes.

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6. **PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden", to establish the 2022 Total Allowable Catch per Amendment 3 to the Interstate Fishery Management Plan for Atlantic Menhaden and to establish all associated fishery sector allocations in response.

Shanna Madsen, Deputy Chief, Fisheries Mgmt., gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Ms. Madsen's comments are a part of the verbatim record.

Ms. Madsen explained that the Atlantic States Marine Fisheries Commission (ASMFC) approved a decrease in the coastwide total allowable catch or landings (TAC) of menhaden at the October 2020 Board meeting. The 2021-2022 coastwide TAC is 194,400 metric tons.

For Virginia, the total allowable commercial landings is 334,781,533 pounds for 2022. This amount represents 78.66% of the coastwide total allowable catch (TAC) after 1% of the TAC is set aside for episodic events. All sector-based percentages remain the same. The purse seine menhaden reduction sector share is 90.04%; the purse seine menhaden bait sector share is 8.38%; and, the non-purse seine menhaden bait sector share is 1.58% of the total allowable commercial landings.

Staff requests the Commission approve amendments Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden", to establish the 2022 Total Allowable Catch to the Interstate Fishery Management Plan for Atlantic Menhaden and to establish all associated fishery sector allocations in response.

The matter was before the Commission for discussion and action.

Associate Member Tankard made a motion to accept staff recommendation. Associate Member France seconded the motion. The motion carried, 6-0. Chair voted yes.

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- 7. PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-450-10 et seq., "Pertaining to the Taking of Bluefish" to update the commercial bluefish annual quota.

Brooke Lowman, Fisheries Mgmt. Specialist, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Ms. Lowman's comments are a part of the verbatim record.

Ms. Lowman explained that the Mid-Atlantic Fishery Management Council (MAFMC)

and the Atlantic States Marine Fisheries Commission (ASMFC) initiated Amendment 7 to the Bluefish Fishery Management Plan as a joint action in December 2017 to address a range of management issues and added a rebuilding plan after the 2019 operational stock assessment determined the bluefish stock was overfished. The MAFMC and ASMFC adopted Amendment 7 to the FMP on June 8, 2021 for use in specification setting for the 2022 fishing year. Amendment 7 revises the commercial bluefish quota allocations among states based on landings data from 2009-2018. The new allocations will be phased in over a period of seven years beginning in 2022. Virginia's allocation will be reduced by 0.86% annually, reaching a final allocation of 5.87% in 2028.

Staff recommends the Commission amend Chapter 4 VAC 20-450-10 et seq., "Pertaining to the Taking of Bluefish," to remove the definition of annual quota as a specified percentage of the coastwide allocation, allowing annual updates to the allocation to occur administratively in accordance with Amendment 7 to the Atlantic Bluefish Fishery Management Plan.

No one spoke in support or opposition of the proposed amendment.

The matter was before the Commission for discussion and action.

Associate Member France made a motion to approve staff recommendation. Associate Member Zydron seconded the motion. The motion carried, 6-0. Chair voted yes.

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8. PUBLIC COMMENT.

Mr. William Pappas, charter captain, requested that the commission make a motion to close the commercial menhaden fishery until a decision is made on whether to reduce the Bay cap for the menhaden reduction fishery. Commission counsel informed Mr. Pappas that a public notice and a public comment period would be required to make that change. Mr. Pappas also requested the commission consider reinstating the February recreational black sea bass fishery that the Commission voted to close on January 25, 2022 and to consider rejecting the recreational black sea bass reductions required by ASMFC and MAFMC for 2022 which will be voted on in April.

Mr. Richard Vaughan, charter captain, also requested the Commission consider rejecting

recreational black sea bass reductions required by ASMFC and MAFMC for 2022.

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- 9. THE MARINERS' MUSEUM, #21-1919**, requests authorization to rehabilitate the low-level outlet, concrete wingwall and primary spillway of the Lion's Bridge Dam along Museum Drive, adjacent to the James River in the City of Newport News. Articulated concrete block matting will be installed and planted to create 26,059 square feet (0.60 acre) of vegetated tidal wetlands along the toe of the dam. This project requires a subaqueous and dune and beach permit.

Ben Nettleton, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Nettleton's comments are a part of the verbatim record.

Mr. Nettleton explained that the Lion's Bridge Dam is situated along the James River and consists of an earthen dam with a roadway on top. The dam was constructed in 1930 and formed Lake Maury. The Mariners' Museum owns the entirety of the dam, lake and surrounding park. The James River side of the dam consist of a moderate to gentle slope down to a scrub-shrub habitat with overgrowth of Loblolly Pines and a few Bald Cypress trees. The dam shoreline runs for about 925 linear feet from east to west. At low tide, there is a 20-30 foot wide beach area along most of the dam's shoreline that is actively eroding, with extensive erosion and undercutting of mature trees observed during site visits. The shoreline is predominantly sandy with some exposed clay deposits. Nearshore bathymetry is shallow (less than 3' MLW) and predominantly sandy with oyster and barnacle strike evident on any submerged structures.

Modifications and improvements to the earthen dam are needed to come into compliance with updated design standards and dam safety regulations required by the Department of Conservation and Recreation (DCR). The City of Newport News has been heavily involved in the project design and management, in partnership with The Mariners' Museum.

The proposed shoreline stabilizations include removing all existing vegetation and grading the slope back. The upland portions of the dam slope will be layered with articulated concrete block (ACB) matting, covered by soil and then seeded with grass and riparian shrub plantings. The ACB matting will extend to the existing beach area,

where it will downturn and be buried under a riprap toe at the existing shoreline.

Approximately half of the riprap toe will be placed above mean high water (MHW) and buried with backfill, topsoil and wetland plantings. The other half of the riprap will extend to between mean low water (MLW) and MHW and be exposed at the surface. Backfill, topsoil and plantings will still be placed landward of this riprap.

The placement of articulated concrete block matting, grading, fill/plantings and rip rap toe installation will impact up to 24,012 square feet of jurisdictional beach. Approximately 1,670 square feet of beach habitat will be converted to intertidal riprap.

On the far eastern end of the project, to the east of the primary spillway, approximately 1,604 square feet of subaqueous bottom will be impacted from re-grading. Riprap will be placed on 130 square feet of State-owned subaqueous bottom in this area and result in a conversion to intertidal riprap.

Although staff agrees with VIMS' recommendation for a sill, staff understands the project is required for the dam to be in compliance with updated DCR Floodplain and Dam Safety regulations. Additionally, the plantings and fill themselves will not result in risk to the structural integrity of the dam, since they will be on top of articulated concrete block matting and/or buried rip rap. Staff raised these concerns to the agent/applicants immediately after being contacted by VIMS' and at the agent's agreement, chose to proceed with the today's public hearing.

The existing beach and riparian area consists of woody vegetation that must be removed under the aforementioned dam safety regulations. The applicant voluntarily proposes a large area of native wetland plantings and staff feels the public benefits of the project outweigh any detriments caused by the grading and modification of the existing shoreline habitat.

Accordingly, after evaluating the merits of the project, and after considering all of the factors contained in §28.2-1205(A) and §28.2-1403(10)(A) of the Code of Virginia, staff recommends approval of the project, with a condition that only clean sand fill be used for wetland plantings within the limits of tidal influence.

Travis Davis spoke in support of the project on behalf of the applicant. His comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member France made a motion to approve staff recommendation. Associate Member Ballard seconded the motion. The motion carried, 6-0. Chair voted yes.

Fees:	\$ 600.00
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- 10. **DEPUE H. DUFFEY, JR. and CHERYL A. DUFFEY, #21-1298**, request authorization to install a riprap sill, with sand backfill and vegetative plantings, to create a 3,400 square foot (0.08 acre) living shoreline adjacent to property situated along the Coan River at 408 Lake Landing Drive in Northumberland County. The project is protested by an adjacent property owner.

Jeffrey Madden, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Mr. Madden’s comments are a part of the verbatim record.

Mr. Madden explained that the applicants’ east facing property is located along the Coan River with a fetch of over a mile. A large portion of the applicants’ property is currently stabilized by an aging timber bulkhead, aligned landward of mean low water (MLW). Mr. and Mrs. Duffey propose to install a living shoreline treatment. To accomplish this, the Duffey’s are requesting authorization to construct a 242 linear foot gapped riprap sill, with a maximum ten (10) foot base width. The sill will be aligned a maximum of 22 feet channelward of MLW. The section of the sill opposing the greatest fetch will have a crest height of one (1) foot above the mean high water (MHW) elevation. Additional erosion protection will be provided by the placement of 220 cubic yards of beach quality sand backfill behind the sill. The filled area will be planted with appropriate wetland vegetation to create a 3,400 (0.08 acre) square foot living shoreline.

While Commission staff is sensitive to the concerns expressed by the protestant, we feel that the proposed project was designed to meet the requirements of the Commonwealth’s existing living shorelines legislation. Specifically, §28.2-104.1D of the Virginia Code and the Commission’s recently updated Tidal Wetlands Guidelines, which specify that a living shoreline treatment be utilized unless the best available science shows that such approaches are not suitable. The comments from VIMS and SEAS provide support for

this opinion. Accordingly, after evaluating the merits of the project and considering all of the factors contained in §28.2-1205 and §28.2-104.1D of the Code of Virginia, staff recommends approval of the project as proposed.

Mr. Blankenship spoke in opposition of the project. His comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Tankard made a motion to approve staff recommendation. Associate Member Ballard seconded the motion. The motion carried, 6-0. Chair voted yes.

Fees:	\$ 300.00
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- 11. THE KNOLLS II, LLC, #21-1558**, requests authorization to dredge 2,525 cubic yards of subaqueous material in upper Dunton Cove of Carter Creek to create an 810-foot long by 30-foot wide channel and nine (9) ancillary channels in Lancaster County. The project is protested by a property owner at the head of the cove.

Jay Woodward, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Woodward's comments are a part of the verbatim record.

Mr. Woodward explained that the project site is near the Town of Irvington at the upper reaches of Dunton Cove, a tributary to Carter Creek and the Rappahannock River. The purpose of the project is to improve navigable access to nine waterfront parcels, four of which have existing piers on the northern side of the cove. Five (5) new parcels, recently created by the subdivision of a larger parcel on the southern shoreline, applied for private piers. All five (5) requests qualify for the statutory authorization provided for private, noncommercial riparian piers by § 28.2-1203.A.5 of the Code of Virginia.

Ambient depths in the cove range from minus four (-4) feet at mean low water, nearer the mouth, to minus one (-1) foot at the uppermost reach of the proposed dredging. The channel will be dredged to a maximum depth of minus four (-4) feet at mean low water,

30 feet wide, but widens to 40 feet at the piers to allow for maneuvering and mooring. Dredge material will be removed mechanically with a barge-mounted excavator, loaded into barges and offloaded at Rappahannock Yachts. From there, the material will be transported by sealed truck to an approved upland site at the contractor's pit, approximately seven (7) miles away in the Brookvale portion of the County. There will be no impacts to tidal wetlands.

There are no leased oyster planting grounds within the project area, the nearest private lease being over one-half mile downstream of the project. The contractor will also use a turbidity curtain during dredging to minimize off-site impacts due to resuspension of sediments during the dredging operation.

Staff has reviewed the project and considered the comments provided by the protestant and VIMS. It would appear that the opposition is as much focused on the addition of several new piers to the cove, as it is to the dredging itself. As stated previously, such piers are statutorily authorized by Code, and thus not within the purview of the Commission.

According to VIMS, the project is likely to have only minimal adverse environmental impacts given its adherence to the 4x dredge buffer. The applicant's agent has proposed the use of a turbidity curtain at the downstream end of the dredging area by the contractor, a standard best management practice where practicable. The material will be completely removed from the waterway, transferred to sealed trucks across a bulkhead on nearby commercial property, and disposed of in an approved upland location.

Accordingly, after evaluating the merits of the project and after considering all of the factors contained in §28.2-1205(A) of the Code of Virginia, staff finds the proposal to be a reasonable and permissible use of State-owned submerged lands. Therefore, we recommend approval of the project as proposed, with a royalty in the amount of \$1,515.00 for the new dredging of 2,525 cubic yards of subaqueous bottom material at the standard rate of \$0.60 per cubic yard.

Mr. Scott, the agent, spoke in support of the project. His comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Ballard made a motion to approve staff recommendation. Associate Member Zydron seconded the motion. The motion carried, 6-0. Chair voted yes.

Royalties: (2,525 cy. @ \$0.60 cy.)	\$ 1,515.00
Fees:	\$ 300.00
Total Fees:	\$ 1,815.00

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- 12. SCOTT GRIFFITH, Oyster Planting Ground Application # 2015-087,** request to lease up to 175 acres of oyster planting grounds in Indian Creek in Northumberland County. The application is protested by numerous local residents, two homeowners associations and a yacht and country club. The requested area also includes currently restricted classification shellfish waters, submerged aquatic vegetation (SAV) and is bisected by an existing creek channel.

Ben Stagg, Chief, Shellfish Management Division, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Stagg's comments are a part of the verbatim record.

Mr. Stagg explained that Scott Griffith submitted an oyster planting ground application on March 23, 2015, seeking to lease approximately 175 acres of oyster planting ground within Indian Creek, a tributary to the Chesapeake Bay Northumberland County. The application was subjected to our normal public interest review. Portions of the requested area contain submerged aquatic vegetation and a portion of the requested area is within restricted waters classification regarding shellfish harvest by the Virginia Department of Health Shellfish Safety Division.

Staff reviews each oyster planting ground application relative to the specific circumstances associated with the location, suitable bottomland, proposed use by the applicant, and other uses of the area. Additionally, after full consideration of both the public benefits and impacts of shellfish aquaculture, consideration of the public trust doctrine, the factors of the Code of Virginia, 28.2-1205A, and the Constitution of Virginia, staff recommends granting of two separate areas on either side of the existing

channel into Indian Creek, within waters classified as open for the direct market harvest of oysters by the Virginia Department of Health Shellfish Safety Division. The two areas contain 22.42 and 28.55 acres respectively.

Mr. Scott Griffith spoke in support of the application. His comments are a part of the verbatim record.

Richard Saunders, protestant, spoke in opposition of the application. His comments are a part of the verbatim record.

Mr. George Fentress also spoke in opposition as Commodore of and on behalf of the Indian Creek Yacht and Country Club. His comments are part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Ballard made a motion to approve the original staff recommendation. Associate Member Lusk seconded the motion. The motion carried, 4-2. Chair voted yes. Associate Members Tankard and Zydron voted no.

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- 13. DISCUSSION: Request for approval of the 2022 Oyster Replenishment and Restoration Plan (ORP) and the Associated Procurements Procedures.** This year's projects will include Hydraulic dredging and planting of fossil or "reef" shells, transplanting and harvesting seed oysters using ordinary oyster dredges, alternative substrate plantings (stone deployment), the purchase and transport of "House" or Shucking house shells, and the movement and transport of shell using ordinary dredges.

Andrew Button, Deputy Chief, Shellfish Management, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Button's comments are a part of the verbatim record.

APPROVAL OF PROCUREMENT ACTIVITY FOR THE 2022 OYSTER REPLENISHMENT PROGRAM:

General:

Certain aspects of the procurement of seed, shell, and replenishment services differ from the Commonwealth's standard procurement procedures, and therefore must be documented and approved by the Commission. The Commission will be exercising this option under Section 28.2-550 of the Code of Virginia.

This section of the Code states that:

The Commission, when it makes a determination in writing that competitive bidding or competitive negotiation is not feasible or fiscally advantageous to the Commonwealth, may authorize other methods of purchasing and contracting for seed oysters, house shells, reef shells, shell bed turning, and other goods and services for oyster ground replenishment, which are in the best interest of the Commonwealth and which are fair and impartial to suppliers. It may establish pricing for its award and purchases; use selection methods by lot; and open, close, and revise its purchases according to changing conditions of the natural resources, markets, and sources of supply.

For the harvest and movement of wild seed oysters, shell bed cleaning, and excavated shells, the Commission will set the per bushel price to be paid. For the production of oyster eyed larvae, the Commission will set a price per million larvae. Public notices will be posted, and all interested parties may apply. Selection of contractors will be according to the lottery method.

The Commission will also set the price for the purchase of house shells. The prices are currently estimated to be \$1.50 per bushel for conch shells, \$1.00 per bushel for clamshells, and \$2.50 per bushel of oyster shells at the shucking house. Loading, transporting, and planting costs will be set by the Commission based on handling costs, the type of activity, and the distance for transporting to the activity sites. Letters were sent to all licensed shucking houses inquiring as to the availability of shell. All houses that responded positively will provide shells to the 2020 program until the total dollar limit for this activity is met. If funds are sufficient, all available house shells in the state will be purchased for the Oyster Replenishment Program. If funding sources do not allow the purchase of the entire shell market, house shell contracts and/or contract amounts will be based on geographical location, mobilization cost, and shell planting locations, which provide the greatest benefit to the oyster industry and to the Commonwealth.

The Commission will also set the price per ton for ground concrete or granite stone that will be used as an alternative cultch material. Loading, transporting, and planting costs

for this material will be set by the Commission based on handling costs, the type of activity, and the distance for transporting to the activity sites. Public Notices will be posted and all interested parties may apply. Contractors will be selected by lottery, or allowed to provide the material until the project is completed.

The agency anticipates that all other 2022 oyster replenishment activities will be completed using the Invitation for Bid or Request for Proposal process in accordance with the Virginia Public Procurement Act.

If the conditions of the oyster resource changes, or if the Conservation and Replenishment Department Head encounters unanticipated/unscheduled situations with the Oyster Replenishment Program, planned procurement activities may be changed, and one or more of the alternative methods of procurement listed above may be utilized to facilitate the completion of the 2022 Replenishment Program.

APPROVAL, BY THE COMMISSION, OF THE REPLENISHMENT PROGRAM WILL ALSO INCLUDE APPROVAL OF THE PROCUREMENT METHODS MENTIONED ABOVE.

2022 Replenishment and Restoration Plan:

Associate Member Tankard made a motion to approve staff recommendation. Associate Member Zydron seconded the motion. The motion passed, 5-0-1. Associated Member Ballard abstained. Chair voted yes.

Procurement vote:

Associate Member Tankard made a motion to approve staff recommendation. Associate Member Zydron seconded the motion. The motion passed, 5-0-1. Associated Ballard abstained. Chair voted yes.

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- 14. REQUEST FOR EMERGENCY AMENDMENT:** Request from the Shellfish Management Advisory Committee to extend the patent tong season which is currently set to end on February 28, 2022. The request is to extend the season until March 15th. Any such extension requires Commission approval as an

emergency regulatory action to “Pertaining to restrictions on oyster harvest”
CHAPTER 4VAC 20-720-10 ET. SEQ.

Ben Stagg, Chief, Shellfish Management Division, gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Mr. Stagg’s comments are a part of the verbatim record.

Mr. J. C. Hudgins, waterman, spoke in favor of extending the season. His comments are part of the verbatim record.

Dr. Mark Luckenbach, VIMS, spoke in support of the application. His comments are a part of the verbatim record.

No one spoke in opposition of the application.

The matter was before the Commission for discussion and action.

Associate Member France made a motion to approve staff recommendation. Associate Member Tankard seconded the motion. The motion passed, 5-0-1. Associate Member Ballard abstained. Chair voted yes.

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There being no further business, the meeting was adjourned at approximately 2:52 p.m. The next Commission meeting will be Tuesday, March 22, 2022.

Justin Worrell, Acting Commissioner

Lou Atkins, Recording Secretary