

## MINUTES

## COMMISSION MEETING

April 25, 2023

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 380 Fenwick Road, Bldg. 96, Fort Monroe, Virginia with the following present:

James Minor	Acting Chair for Commissioner Green
Lynn Kellum	
William Bransom	
Wayne France	
John Tankard III	Associate Members
Heather Lusk	
Jeremy Headley	
A.J. Erskine	
Kelci Block	Assistant Attorney General
Jamie Hogge	Recording Secretary
Shanna Madsen	Deputy Chief, Fisheries Mgmt.
Alexa Galvan	Fisheries Mgmt. Specialist
Jill Ramsey	Fisheries Mgmt. Specialist
Jennifer Farmer	Fisheries Mgmt. Specialist
Somers Smott	Fisheries Mgmt. Specialist
Brooke Lowman	Fisheries Mgmt. Specialist
Josh McGilly	Fisheries Mgmt. Specialist
Lewis Gillingham	Director, SWFT
Alicia Nelson	Coordinator, RFAB/CFAB
Rachel Peabody	Director of Coastal Policy
Matthew Rogers	Chief, Law Enforcement
Herbert Bell	Deputy Chief, Law Enforcement
Randy Owen	Chief, Habitat Management
Justin Worrell	Deputy Chief, Habitat Management
Jeff Madden	Environmental Engineer, Sr.
Jay Woodward	Environmental Engineer, Sr.
Mark Eversole	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.

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Tiffany Birge  
Claire Gorman

Environmental Engineer, Sr.  
Environmental Engineer, Sr.

Adam Kenyon  
Andrew Button  
Daniel Faggert

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

Virginia Institute of Marine Science (VIMS):

Lyle Varnell            Mark Luckenbach    Emily Hein

Others present:

Rod Emmons	Chase Heckman	Rick Boyles
Harold Jones	Zack Martin	Brad Martin
David O'Brien	James Erickson	Carl Eason
Dana Whitt	Heather Lockwood	John Wood
George Junkin	Mark Hittle	Christine Eberhart
Guy Eberhart	Rebecca Francese	Ricky Hall
Brian Hallberg	John Korte	Andy Lacatell
Bob Simon	Holly Berckenhoff	Brent James
Melanie Coffey	Chris Moore	Russell Burke
Jim Milliken	Chris Murphy	George Mapp
Ben Stagg	John Cosgrove	Kim Husky
Keith Lockwood	Phil Pillan	and others.

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**APPROVAL OF AGENDA.** – Acting Chair James Minor asked if there were any changes from the Board members or staff.

Randy Owen, Chief, Habitat Management, requested that Item 2 E be removed from the agenda.

**Associate Member Tankard moved to approve the agenda as amended. Associate Member Headley seconded the motion. The motion carried, 7-0.**

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**MINUTES:** Acting Chair James Minor asked if there were any changes or corrections to be made to the March 28, 2023, Commission Meeting minutes.

**Associate Member Erskine moved to approve the agenda as presented. Associate Member Headley seconded the motion. The motion carried, 6-0-1. Associate Member Lusk abstained.**

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Acting Chair James Minor 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 2A through 2D for the Associate Members. Mr. Owen’s comments are a part of the verbatim record.

**2A. SMITH IRON & METAL CO. INC., #22-1109**, requests authorization to construct a marine terminal with a 410 linear foot steel bulkhead, one (1) 111-foot long by 73-foot wide dry dock, three (3) timber pile mooring dolphins, and 58,000 cubic yards of mechanical maintenance dredging, to a maximum depth of -20 feet below mean low water, at property (1304 Bellwood Road) along a man-made basin and section of the James River in Chesterfield County. A turbidity curtain will be installed at the mouth of the basin prior to dredging operations and bulkhead construction. This project requires both a tidal wetlands permit and a subaqueous permit, previously permitted under #12-0558. Impacts to vegetated tidal wetlands remain unchanged from the issued permit and were previously mitigated.

Royalties: 2,250 CYS @ \$0.60 / CU	\$ 1,350.00
Fees:	\$ 300.00
Total:	\$ 1,650.00

**2B. HUNTINGTON INGALLS INC-NEWPORT NEWS SHIPYARD, #22-**

0898, requests authorization to construct a pump house with five (5) river water intakes and related wave barrier at Newport News Shipbuilding's Pier 9 situated along the James River in the City of Newport News. The pump house will supply cooling water while nuclear submarines are constructed and, in the event of an emergency, will be used for fire protection. The intakes will be fitted with 3/8-inch screen slots and a maximum through-slot velocity of 0.4 foot per second for an average of 0.924 MGD. The maximum through-slot velocity will only be necessary to address emergency situations.

Fees:	\$ 600.00
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2C. **RIVER PORT, LLC, #23-0142**, requests authorization to construct a 500 linear foot by 3-foot wide floating security barrier system at the end of Pier 14 and Pier 15 at the River Port Facility (1201 Terminal Avenue) situated along the James River in the City of Newport News. The barrier system will be attached to the piers by two (2) 45-foot by 20-foot barges anchored by two (2) 5-foot diameter steel hollow piles. The use of cushion blocks and “ramp-up” procedures will be required during the installation of hollow steel pilings.

Fees:	\$ 600.00
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2D. **VIRGINIA BEACH DEPARTMENT OF PUBLIC WORKS, #23-0403**, requests authorization to nourish approximately 2,900 linear feet of the existing Croatan Beach shoreline to a maximum distance of 220 feet channelward of mean low water between Rudee Inlet to the north and Camp Pendleton to the South, situated along the Atlantic Ocean in Virginia Beach. Approximately 150,000 cubic yards of beach quality sand will be hydraulically placed on the beach from material dredged from the Atlantic Ocean Channel deepening project. Staff recommends approval of the project as proposed with the following special conditions:

1. Permittee agrees to provide a post-nourishment beach survey referenced to mean low water within 30 days of the completion of activities;
2. Permittee agrees to daily monitoring for sea turtle nesting on Croatan Beach in coordination with Virginia Aquarium personnel. Any turtle nest located must be identified and protected from nourishment activities.

Fees:	\$ 600.00
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**REMOVED FROM THE AGENDA**

**2E. DOMINION ENERGY VIRGINIA, #22-1183**, requests authorization to install nine (9) 230 kV submarine high-voltage alternating-current offshore export cables placed a minimum of eight (8) feet below State-owned submerged bottomlands via plowing and tunneling within the Atlantic Ocean from the three nautical mile boundary of the Commonwealth's territorial sea to the State Military Reservation (SMR, formally Camp Pendleton); install up to nine (9) permanent concrete mattresses for cable protection, up to nine (9) temporary cofferdams, and 108 temporary hollow-steel or H-piles to facilitate cable installation. Additional authorization is requested to aerially cross West Neck Creek, North Landing River, and Gum Swamp in the City of Virginia Beach, with up to four (4) 230 kV electrical circuits extending from the proposed Harpers Switching Station situated north of Harpers Road in the City of Virginia Beach and terminating at the Fentress Substation located northwest of the intersection of Centerville Turnpike and Ethridge Manor Boulevard in the City of Chesapeake. The export cables and aerial crossings will transmit electrical power from 176 proposed 14.7-MW wind turbine generators to be constructed in federal waters approximately 24 nautical miles offshore to support the Coastal Virginia Offshore Wind Project. Staff recommends approval with payment of an encroachment royalty of \$492,912.

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 2A through 2D as presented. Associate Member Bransom seconded the motion. The motion carried 7-0.**

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**3. CONSENT AGENDA ITEMS – There were 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. DISCUSSION,** Staff presentation on VMRC’s new Abandoned or Derelict Vessel (ADV) Grant Program and a Commission review of application ADV-23-01 by the City of Norfolk to reimburse for the removal and disposal of a sunken vessel at Willoughby Boat Ramp, in Willoughby Bay.

Rachael Peabody, Director of Coastal Policy, gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Ms. Peabody’s comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

**Associate Member Erskine made a motion to approve staff recommendation. Associate Member Kellum seconded the motion. The motion carried, 7-0.**

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**6. ARMY CORPS OF ENGINEERS and CITY OF VIRGINIA BEACH, #22-0999,** requests authorization to construct a 23.2-acre artificial oyster restoration reef consisting of 6-inches of crushed stone topped with 6-inches of fossil oyster shell veneer (maximum height of 12 inches) located south of Bay Island within Broad Bay as part of Phase II of the Lynnhaven River Basin Ecosystem Restoration Project in Virginia Beach. The reef area will consist of a maximum of four (4) 50-foot-wide reef striations oriented parallel to shore, spaced 100 feet apart and will be constructed to maintain a minimum clearance of 6-feet mean lower low water. This project is protested by numerous nearby property owners.

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

Bryan Hallberg, agent for the applicant, was sworn in and spoke in support of the project. His comments are a part of the verbatim record.

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Heather Lockwood, project manager for the project, was sworn in and explained the project in detail. Her comments are a part of the verbatim record.

There were six (6) people that spoke in support of the project. Their comments are a part of the verbatim record.

There were four (4) people that spoke in opposition of the project. Their comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

**Associate Member Erskine made a motion to approve staff recommendation. Associate Member Lusk seconded the motion. The motion carried, 7-1. Associated Member Kellum voted no. Acting Chair James Minor voted yes.**

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7. **RODNEY EMMONS, #21-1951**, requests authorization to retain a 24' x32' (768 square feet) open sided dual slip boathouse with lifts and associated catwalks, a 12'x18' (216 square feet) gazebo roof structure and a 630 square foot L-head, at the channelward end of a statutorily authorized private pier, adjacent to riparian property along Occoquan Bay at 903 Bay Circle in Prince William County.

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

Rodney Emmons, applicant, was sworn in. His comments are a part of the verbatim records. Mr. Emmons was represented by Carl Eason. Mr. Eason's comments are a part of the verbatim record.

Brad Martin was sworn in and spoke 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 Erskine seconded the motion.**

**Associate Member Bransom made a recommendation to waive the triple permit fee for the applicant but keep the civil charge of \$9,000 for the contractor. Associate Member Tankard made a motion to approve the amended recommendation. Associate Member Erskine seconded the motion. The motion carried, 8-0. Acting Chair James Minor voted yes.**

Fee for Emmons:	\$ 300.00
Civil Charge for Brad Martin:	\$ 9,000.00

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**8. JAMES WHITT, #21-2437,** requests authorization to construct a private timber wharf, a timber deck, and an open-sided boathouse serving 2961 Sand Bend Road situated within the Back Bay Subdivision along a cove to Back Bay in the City of Virginia Beach. This project is protested by an adjacent property owner.

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

Harold Jones, representative for the applicant, was sworn in. His comments are a part of the verbatim record.

Jim Whitt, applicant, was sworn in. His comments are a part of the verbatim record.

There were two (2) people that spoke in opposition to the project. Their comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

**Associate Member Headley made a motion to approve staff recommendation. Associate Member Tankard seconded the motion. The motion carried, 6-2. Associate Members Bransom and France voted no. Acting Chair James Minor voted yes.**

Fees:	\$ 100.00
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**9. PUBLIC COMMENTS.**

**Ricky Hall**

Requested to have Oyster User Fee reinstated because of health issues. His comments are a part of the verbatim record.

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**10. PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass," to establish the 2023 recreational management measures for this species.

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

Ms. Galvan explained on December 2022, the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission Summer Flounder, Scup, and Black Sea Bass Board (Board) approved a conservation equivalency plan for black sea bass that would allow regions to customize 2023 management measures to reduce recreational harvest by 10%. At the same meeting, Virginia was granted approval to conduct a 2023 February recreational fishery on the condition that any additional landings occurring during that season would result in a deduction of fishing days from the regular open season. During the February 2023 recreational black sea bass season, Virginia anglers landed 38,023 pounds of black sea bass. Both reductions will be achieved by a closure of 27 days, resulting in a season from May 15 through June 29 and July 27 through December 31.

Staff requests the Commission approve amendments to Chapter 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass," to establish season dates for the 2023 recreational black sea bass fishery.

The matter was before the Commission for discussion and action.

**Associate Member Tankard made a substitute motion to accept an alternative**

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**season of May 15 through July 6 and August 9 through December 31. Associate Member Headley seconded the motion. The motion carried, 8-0.**

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There being no further business, the meeting was adjourned at approximately p.m. The next Commission meeting will be Tuesday, May 23, 2023.

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James Minor, Acting Chair

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Jamie Hogge, Recording Secretary