

MINUTES

COMMISSION MEETING

August 22, 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:

Jamie L. Green	Commissioner
Lynn Kellum	
William Bransom	
James E. Minor III	Associate Members
Jeremy Headley	
A.J. Erskine	
Kelci Block	Assistant Attorney General Via phone
Rachel Peabody	Director of Coastal Policy
Lisa Pyle	Recording Secretary
Jamie Hogge	Recording Secretary
Todd Sperling	Bs. Systems Manager
Pat Geer	Chief, Fisheries Mgmt.
Shanna Madsen	Deputy Chief, Fisheries Mgmt.
Joe Grist	Deputy Chief, Fisheries Mgmt.
Joshua McGilly	Fisheries Mgmt. Specialist
Somers Smott	Fisheries Mgmt. Specialist
Brooke Lowman	Fisheries Mgmt. Specialist
Jennifer Farmer	Fisheries Mgmt. Specialist
Alexa Galvan	Fisheries Mgmt. Specialist
Andy Dong	Natural Resource Specialist
Ethan Simpson	Biological Sampling Prog. Mgr.
Matthew Rogers	Chief, Law Enforcement
Herbert Bell	Deputy Chief, Law Enforcement
Chris Miller	Marine Police Officer
Zach Widgeon	Director of Communication
Randy Owen	Chief, Habitat Management
Justin Worrell	Deputy Chief, Habitat Management

Commission Meeting

**19129
August 22, 2023**

Jay Woodward	Environmental Engineer, Sr.
Lauren Chartrand	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Tiffany Birge	Environmental Engineer, Sr.
Kirsten Travis	Environmental Engineer, Sr.
Khadijah Payne	Environmental Engineer, Sr.
Claire Gorman	Environmental Engineer, Sr.
Brad Reams	Habitat Compliance Officer
Adam Kenyon	Chief, Shellfish Management
Andrew Button	Deputy Chief, Shellfish Management
Daniel Faggert	Surveyor, Engineering/Surveying

Virginia Institute of Marine Science (VIMS):

Lyle Varnell	Emily Hein	Melissa Southworth
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Others present:

Beverly Ludford	Terri Cuthriell	Richard Draper
Tomoko Hamada	Lynn Jenkins	Bryan Watts
J.C. Hudgins	Tom Charlock	Christi Medice
Debbie Campbell	Pam Scrima	Mike Hutt
Ben Johnson	Chris Moore	Kathy Louthan
Kim Huskey	Tom Kellum	Tammy Halstead
Emma Cummings	Denise Apple	Andy Cortez
Karia Havens	John Cosgrove	David Obrien
Jim George	Julie Kacmarcik	Elizabeth Wilkins
Jacques Montfrans	Ben Stagg	Mike Ostrander
Lyn Evans Johnson	and others.	

APPROVAL OF AGENDA. – Commissioner Jamie Green asked if there were any changes from the Board members or staff.

Rachel Peabody requested to review and discuss funding for the removal of an abandoned vessel in the Nansemond River as the final agenda item.

Associate Member Erskine moved to approve the agenda as presented. Associate Member Minor seconded the motion. The motion carried, 6-0.

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MINUTES: Commissioner Green asked if there were any changes or corrections to be made to the July 25, 2023, Commission Meeting minutes.

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

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

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Randy Owen, Chief, Habitat Management, introduced new Environmental Engineers Khadijah Payne and Kirsten Travis. Mr. Owen's comments are a part of the verbatim record.

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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 2E for the Associate Members. Mr. Owen's comments are a part of the verbatim record.

- 2A. DEPARTMENT OF THE NAVY, #23-0468,** requests authorization to remove an existing Magnetic Silencing (Degaussing) sensor array and install a new underground degaussing sensor array and underground cable from the array to the existing Data Concentration Shed (DCS) located in Hampton Roads west of the Hampton Roads Entrance Channel near Naval Station Norfolk in anticipation of the proposed deepening of the Elizabeth River Harbor Channel in Norfolk.

Fees:	\$ 600.00
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- 2B. NORFOLK DEPARTMENT OF PUBLIC WORKS, #23-1160,** requests authorization to construct 122 linear feet of new steel sheet pile replacement bulkhead, with clean backfill material, and new concrete cap, a maximum of two (2) feet in front of an existing, deteriorated bulkhead and cap at property on the Elizabeth River at the end of West Bute Street in Norfolk.

Fees:	\$ 600.00
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- 2C. RANDJODH AND TEJINDER GILL, #19-1126,** request authorization to install 60 linear feet of riprap revetment, extending a maximum 6-foot channelward of mean high water, at property (2030 Channel View Terrace) situated along the James River in Chesterfield County.
- 2D. DONALD DEBORD, #23-0844,** requests authorization to construct a new 130-foot long bulkhead two (2) feet channelward of an existing bulkhead, four (4) 18-foot long low profile groins, each with an 8-foot long T-head, and nourish the groin areas with beach quality sand, along the York River at 361 Simpson Creek Road in King and Queen County. The project requires a VMRC wetlands and a subaqueous permit.
- 2E. JOHN BLAND, #23-1639,** requests authorization to construct two (2) 50-foot long low-profile groins, each with a 30-foot long T-head, along the York River at 195 Shore Drive in King and Queen County. The project requires a VMRC subaqueous and a wetlands permit.

Royalties: Encroachment of 88 LF @ \$0.50 per LF	\$ 44.00
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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 Erskine moved to approve the Page 2 item 2A through 2E as presented. Associate Member Bransom seconded the motion. The motion carried 6-0.

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3. CONSENT AGENDA ITEMS –

Randy Owen, Chief, Habitat Management, reviewed the Page 3 Consent Agenda Items 3A for the Associate Members. Mr. Owen’s comments are a part of the verbatim record.

3A. AFTERWORKS LLC, #23-1348, requests after-the-fact authorization to retain seven (7) uncovered boatlifts, installed within existing boat slips, at the Lewisetta Marina adjacent to Kingscote Creek at 410 Church Lane in Northumberland County. The applicant has agreed to a \$1,000.00 civil charge and a triple permit fee in lieu of further enforcement action. The contractor has agreed to a \$1,000.00 civil charge as well.

Triple Permit Fee for applicant:	\$ 900.00
Civil Charge for applicant:	\$ 1,000.00
Civil Charge for contractor:	\$ 1,000.00
Total:	\$ 2,900.00

No representative for the applicant was present to comment.

The matter was before the Commission for discussion and action.

Associate Member Bransom moved to approve 3A as presented. Associate Member Minor seconded the motion. The motion carried 6-0.

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

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5. PUBLIC COMMENT:

Eleven members of the public voiced concern about the mendhaden population and its impacts on predator fish and bird species. They asked the Commission to limit mendhaden purse seine fishing in the Chesapeake Bay.

Christi Medice recommended having a 2-2.5-mile buffer off the Bay for Omega fishing vessels.

Debbie Campbell remarked on a decline in striped bass population and that the bay is dying.

Bryan Watts, director at the Center for Conservation Biology discussed the importance of mendhaden as a prey species for local and migratory birds. He stated that his data suggests a need to restore the mendhaden population to 1980's levels.

Julie Kacmarcik, conservation chair for the Richmond Audubon Society called for a reduction in the annual harvesting of mendhaden,

Terri Cuthriell, past president of the VA Society of Ornithology commented on the failed breeding of osprey and bald eagles due to starvation brought on by mendhaden overharvesting. She called for a ban on industrial reduction fishing.

Mike Ostrander, a charter boat captain and member of the VA Anglers Club, asked for compromise of total reform of mendhaden harvesting.

Four others spoke regarding the mendhaden population, calling for restrictions on harvesting. All comments are part of the verbatim record.

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6. **PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest" to establish the 2023-2024 areas of public harvest, public oyster harvest seasons, and oyster resource conservation measures.

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

Associate Member Headley asked Mr. Button about bushel limits now versus in the 1980's. Mr. Button remarked that at that time, oyster harvesting was more resource-driven than regulatory-driven. Their comments are part of the verbatim record.

Chris Moore of the Chesapeake Bay Foundation spoke on behalf of Jackie Shannon in support of staff recommendations. Beverly Ludford of Pleasure House Oysters and an SMAC/AMAC committee member, encouraged acceptance of committee and staff recommendations. Their comments are part of the verbatim record.

The following SMAC members spoke in opposition to staff recommendations:
Tommy Kellum voiced his concern about Rappahannock River area 6 being open for two months. He also was opposed to taking area 7 out of season at the end of the year due to high oyster demand at that time.
J.C. Hudgins, SMAC chairman and president of the VA Waterman's Assoc. voiced concern over the Rappahannock river season rotation. He proposed that shorter, multiple openings would enable the watermen to disperse.

Kim Huskey of Cherrystone Aqua Farms opposed the use of patent tongs. Mike Hutt, executive director of the VA Marine Products Board opposed Nov-Dec restrictions on oyster harvesting due to higher demand during that time period. All conversations and comments are part of the verbatim record.

2023 – 2024 Public Oyster Harvest Season (Approved by the Commission on 08/22/2023)

James River

Clean Cull:

Oct. (Harvest ending at 11 am)
Nov., Dec., Jan., Feb., Mar., Apr., May – HT

Area 1,2:

Oct. – **HS* (2nd. half of the month with harvest ending at 11 am)
Nov., Dec., Jan. & Feb.– HS* (Harvest ending at noon)
Mar. & Apr. - HT

Area 3:

Nov., Dec., Jan. Feb. – HS* (Harvest ending at noon)
Mar. - **HS* (1st. half of the month with harvest ending at noon)
Mar. – HT** (2nd.. half of the month)
Apr. - HT

Seed Oysters:

Oct., Nov., Dec., Jan., Feb., Mar., Apr. & May – HT

York River

York HTA

Nov., Dec., Jan., Feb. & March - HT

York 1:

Oct. – HT* (Harvest ending at 11 am)
Nov. – HS* (Harvest ending at noon)
Dec., Jan., Feb. & March - HT

Milford Haven

Milford Haven:

Nov., Dec., Jan., Feb. & March - HT

Deep Rock:

Nov., Dec., Jan., & Feb. – PT* (Harvest ending at noon)

Rappahannock River

Area 1:

Oct. - **PT* (2nd. half of the month with harvest ending at 11 am)

Nov., Dec. & Jan. – PT* (Harvest ending at noon)

Middle Ground:

Nov. – HS* (1st. half of the month with harvest ending at noon)

Larsons Bay:

Dec. Jan. & Feb. – PT* (Harvest ending at noon)

Area 4:

Oct. - **HS* (2nd. half of the month with harvest ending at 11 am)

Area 6:

Nov. & Feb. – HS* (Harvest ending at noon)

Area 7:

Dec. – HS* (Harvest ending at noon)

Area 8:

Jan. – HS* (Harvest ending at noon)

Area 9:

Oct. – HT* (Harvest ending at 11 am)

Nov., Dec., Jan., Feb. & March – HT

Corrotoman HTA:

Oct. – HT* (Harvest ending at 11 am)

Nov., Dec., Jan., Feb., & March – HT

Great Wicomico

Great Wicomico 1:

Dec. & Jan. – HS* (Harvest ending at noon)

Blackberry Hangs

Feb. – HS* (Harvest ending at noon)

Little Wicomico

Little Wicomico:

Oct. – HT* (Harvest ending at 11 am)

Nov. & Dec. – HT

Potomac Tribs and other areas

Yeocomico & Coan:

Oct. – HT* (Harvest ending at 11 am)

Nov. & Dec. – HT

Indian Creek:

Mar. – HT

Tangier-Pocomoke

Beasley

Mar. – DR** (2nd. half of the month, harvest ending at noon)

Tangier California:

Nov. – DR* (2nd half of month, harvest ending at noon)

Poco Area 1

Dec., Jan., Feb., – DR* (Harvest ending at noon)

Tangier Area 1:

Dec., Jan., Feb., – DR* (harvest ending at noon)

Poco. Sound 10:

Nov., Dec. Jan., Feb. & Mar.– HT

Poco. Sound 9:

Nov., Dec. Jan., Feb. & Mar.– HT

Seaside ES:

Nov., Dec., Jan., Feb., & Mar. – HT/By Hand

The matter was before the Commission for discussion and action.

Associate Member Bransom made a motion to accept SMAC’s 2023-2024 Public Oyster Harvest Season to include Larson Bay T, Dec.-Feb. Associate Member Headley seconded the motion. The motion carried, 6-0.

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- 7. **RECOMMENDATION:** Marine Fishing Improvement Fund Grant Proposal for consideration.

Zachary Widgeon, Director of Communication, gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Mr. Widgeon’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 Bransom seconded the motion. The motion carried, 6-0.

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8. DISCUSSION: Nansemond Indian Nation requests funds from VMRC's Abandoned or Derelict Vessel Grant Program to remove a derelict vessel in the Nansemond River.

Racheal 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.

Nansemond Indian Nation requests advanced funds for \$26,000 for the investigation, removal, and disposal of an abandoned vessel in the Nansemond River at 1001 Pembroke Lane, Suffolk.

Staff is requesting a review and vote of confidence on the application to provide funding to the Nansemond Indian Nation from the VMRC's Abandoned or Derelict Vessel Grant Program Funds. The application is consistent with the requirements set forth in the ADV Grant Policy Manual.

Associate Member Minor made a motion to approve staff recommendation. Associate Member Headley seconded the motion. The motion carried, 6-0.

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There being no further business, the meeting was adjourned at approximately 12:10 p.m. The next Commission meeting will be Tuesday, September 26, 2023.

Jamie L. Green, Commissioner

Lisa Pyle, Recording Secretary