

## MINUTES

## Commission Meeting

January 27, 2015

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 2600 Washington Avenue, Newport News, Virginia with the following present:

John M. R. Bull	Commissioner
James D. Close A. J. Erskine S. Lynn Haynie Ken Neill, III Whitt G. Sessoms, III John E. Zydron	Associate Members
Matthew R. Hull	Assistant Attorney General
Laurie Naismith	Director, Public Relations
Katherine Leonard	Recording Secretary
Jane McCroskey Erik Barth Dave Lego	Chief, Admin-Finance Bs. System Manager Bs. System Specialist
Robert O'Reilly Joe Grist Joe Cimino Stephanie Iverson Lewis Gillingham Samantha Hoover Adam Kenyon Rachael Maulorico Ande Ehlen Alicia Nelson	Chief, Fisheries Mgmt. Deputy Chief, Fisheries Mgmt. Fisheries Mgmt. Manager, Sr. Fisheries Mgmt. Manager Director, SWFT Fisheries Mgmt. Specialist Biological Sampling Supervisor Fisheries Mgmt. Planner Fisheries Mgmt. Specialist RFAB Coordinator
Rick Lauderman Warner Rhodes Rob Berryman John Richardson Enrique Sanchez Mike Morris	Chief, Law Enforcement Deputy Chief, Law Enforcement Captain, SA Supervisor Marine Police Officer Marine Police Officer Marine Police Officer, Sr.

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Tony Watkinson	Chief, Habitat Management
Chip Neikirk	Deputy Chief, Habitat Management
Jeff Madden	Environmental Engineer, Sr.
Hank Badger	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Randy Owen	Environmental Engineer, Sr.
Ben Stagg	Environmental Engineer, Sr.
Justin Worrell	Environmental Engineer, Sr.
Mark Eversole	Environmental Engineer, Sr.
Jay Woodward	Environmental Engineer, Sr.
Brad Reamy	Program Support Technician
Robert Butler	Surveyor, Engineering/Surveying

Virginia Institute of Marine Science (VIMS):

Lyle Varnell	Mark Luckenbach	Emily Hein
Robert Orth		

Others present:

Kahe Crum	Bekki Jucksch	Adam Melita
Shawn Madern	Cynthia Hall	Chuck Roadley
Vic Yurkovic	Jamie Oliver	Mark Mason
J P Richardson	Erika Schmitt	Andrew Johnson
Bo Lusk	Frederick Holbert	David O'Brien
Kim Huskey	Jim Holthoff	Joe Stephenson
John Vigliotta	Laura McKay	Nick Meade
Keith Skiles	Ann Gallivan	Heather Lusk
Andy Lacatell	Squeezer	Kenneth Green
Joe Carter	Robert H. Williams	William A. West
William Crewe, Jr.	William Crewe	William T. West
Timothy Breen	William Robbins	David A. Turner
William Greene, Jr.	Tom Swartzwelder	Richard Green
Ann Sullivan	Chris Moore	

and others.

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Commissioner Bull called the meeting to order at approximately 9:36 a.m. Associate Members Ballard and Beck were absent.

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At the request of Commissioner Bull, Associate Member Erskine said the invocation and Tony Watkinson, Chief, Habitat Management, led the pledge.

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**APPROVAL OF AGENDA:** Commissioner Bull asked if there were any changes from the Board members or staff.

Robert O'Reilly, Chief, Fisheries Management, requested that an Item 18 be added to discuss a public hearing in February to consider making changes in the amount of a trip possession limit and the starting season date for summer flounder, both requested by industry.

Commissioner Bull asked for a motion to the requested additional item.

**Associate Member Erskine moved to add item 18. Associate Member Neill seconded the motion. The motion carried, 7-0.**

Commissioner Bull asked for a motion to approve the amended agenda.

**Associate Member Sessoms moved to approve the agenda, as amended. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.**

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**MINUTES:** Commissioner Bull asked if there were any changes or corrections to be made to the December 9, 2014 Commission meeting minutes.

As there were no changes, Commissioner Bull stated that the matter was before the Commission.

**Associate Member Erskine moved to approve the minutes, as amended. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.**

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

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**Commission Meeting**

- 2. **PERMITS** (Projects over \$500,000 with no objections and with staff recommendation for approval).

Tony Watkinson, Chief, Habitat Management, informed the Commission that there was only the one page two item to be heard. He reviewed the ‘page two’ item for the Board. His comments are a part of the verbatim record.

Commissioner Bull asked for questions of staff and any public comments for any of the items presented and there were none.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Zydron moved to approve the ‘page two’ item, as submitted. Associate Member Erskine seconded the motion. The motion carried, 7-0. Chair voted yes.**

- 2A. **BAE SYSTEMS. #14-1716**, requests authorization to install eight (8) new 6.5-inch diameter sub-surface cables across approximately 440 linear feet of State-owned submerged bottom to increase the power supply to the Titan Drydock at Pier 1 adjacent to their facility at 750 West Berkley Avenue situated on the Southern Branch of the Elizabeth River in Norfolk.

Permit Fee	\$100.00
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- 3. **CONSENT AGENDA ITEMS.**

Tony Watkinson, Chief, Habitat Management, informed the Commission that there was one consent item to be heard. He reviewed the consent item for the Board. He noted that an agreement was made between all parties to accept the staff recommendation that the civil charges of \$2,000.00 would be assessed against both the applicant and the contractor. His comments are a part of the verbatim record.

Commissioner Bull asked for questions of staff.

Associate Member Erskine asked if there had been any prior incident. Mr. Watkinson stated that only the contractor had a previous violation and paid a civil charge.

Commissioner Bull asked for any public comments and there were none.

Commissioner Bull stated the matter was before the Commission.

Associate Member Neill moved to approve the consent item, as submitted. Associate Member Close seconded the motion. The motion carried, 7-0. Chair voted yes.

3A. **STINGRAY POINT BOAT WORKS, LLC, #14-1398**, requests after-the-fact authorization to retain 170 square feet of newly constructed replacement pier and a 15-foot long, vinyl sheet-pile wave screen, and authorization to install a 24-foot long by 14-foot wide floating dock and associated gangway at commercial property on Broad Creek at 19047 General Puller Highway in Deltaville, Middlesex County. The applicant and contractor, Haywood Marine, have each agreed to pay a civil charge of \$2,000.00 in lieu of further enforcement action. Staff recommends approval and acceptance of the aforementioned civil charges and the payment of a triple permit fee of \$75.00.

Civil Charge (applicant)	\$2,000.00
Permit Fee (Triple)	\$ 75.00
Total Fees	\$2,075.00
Civil Charge (contractor)	\$2,000.00

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4. **CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.** When asked, Matthew Hull, Assistant Attorney General and VMRC Counsel indicated that no closed meeting was necessary.

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5. **COTTAGE LINE CIVIC LEAGUE, #13-1899-D, NICHOLAS VANDERGRIFT, #13-1809-D, JUDITH SWYSTUN ET AL., #13-1808-D, CATHERINE McCOY, #13-1803-D, CATHERINE McCOY, #13-1804-D, THOMAS AND THELMA DRAKE, #13-1799-D.** Commission review on appeal by 52 freeholders of the June 11, 2014, decision by the Norfolk Wetlands Board to approve the above-referenced applications in modified form with special conditions, to include excavating sand from the dune as proposed or to a minimum height of 14 feet, and relocating the excavated sand channelward of the existing dune face along the Ocean View shoreline adjacent to the Chesapeake Bay. Request for postponement. Continued from the July 22 and September 23, 2014, Commission meetings.

Tony Watkinson, Chief, Habitat Management explained that a postponement had been requested by the applicants and all parties had agreed to the continuance of this matter. Mr. Watkinson recommended that this matter be postponed indefinitely and that any request to place the matter back on a Commission agenda be provided at least 60 days prior to the hearing. His comments are a part of the verbatim record.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Sessoms stated that he had spoken with some of the parties involved and it seemed that they were working towards resolving the matter. He moved to accept the staff recommendation for a deferral. Associate Member Zydron seconded the motion. The motion carried, 7-0. Chair voted yes.**

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6. **ISLE OF WIGHT COUNTY, #14-1236**, requests authorization to construct a 15-foot wide pedestrian/bicycle bridge over approximately 210 linear feet of Jones Creek, a tributary to the Pagan River in Isle of Wight County. The bridge structure is associated with a proposed 10-foot wide shared-use trail from the Town of Smithfield to the Carrollton Nike Park. The application is protested by adjacent property owners. Tabled from the December 9, 2014, Commission meeting.

Ben Stagg, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation. He provided slides. His comments are a part of the verbatim record.

Mr. Stagg explained that based on the information provided in the original application and the supplemental information provided by the applicant, after hearing of the concerns of nearby property owners, after evaluating the merits of the project against the concerns expressed by those in opposition to the project, and after considering all of the factors contained in §28.2-1205 of the Code of Virginia, staff recommended approval of the project with a time-of-year restriction on any in-water construction activities between February 15 through June 30 of any year to protect anadromous fish species.

After some discussion, Commissioner Bull asked for comments from the County representative.

Jamie Oliver, representative for Isle of Wight Transportation Department, was sworn in and her comments are a part of the verbatim record. She stated she could answer any questions and she appreciated staff's comments. She said the power line was between the vehicular bridge and pedestrian bridge and there were no plans to relocate the line.

Commissioner Bull asked for comments, pro or con.

Mark Mason, protestant, was sworn in and his comments in opposition are a part of the verbatim record. Mr. Mason explained that the elevation of the pedestrian bridge will impact navigation and he requested that the bridge be raised.

Jim Holthoff, protestant was sworn in and his comments in opposition are a part of the verbatim record. Mr. Holthoff explained that he was using the area recreationally and the clearance was seven feet. He said that the marine contractor who builds piers in the area told him he needed 12 feet clearance for his boat and equipment. He said that the bridge needed to be elevated and that the cost would be minimal to do so.

Becky Dukes, County Engineer, was sworn in and her comments are a part of the verbatim record. Ms. Dukes explained the varying elevations of the bridges and stated to raise the elevation of this bridge would increase the cost. She added that elevating it would definitely impact the adjoining property owner since this would require that more trees be removed. In response to a question, she said the clearance of the bridge for navigation would be determined by the U. S. Coast Guard.

Ms. Oliver in her rebuttal comments explained that there was a 25 year plan for the vehicular bridge and the pedestrian bridge could be either changed or eliminated if the VDOT Bridge were to be elevated and widen to four lanes at that time.

After further discussion, Commissioner Bull closed the public hearing. He stated the matter was before the Commission for discussion or action.

**Associate Member Erskine moved to approve the staff recommendation. Commissioner Bull stated that he appreciated the public’s concerns and for their looking to the future, but the Commission was reluctant to make an assumption of what VDOT would do in 25 years. Associate Member Zydron seconded the motion. The motion carried, 7-0. Chair voted yes.**

Permit Fee	\$100.00
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- 7. **PUBLIC HEARING:** To set-aside, not to be leased, approximately 805 acres of unassigned State bottom in Cobb Bay adjacent to and south of Public Ground #13, and approximately 963 acres in South Bay adjacent to and east of Public Ground #30, in Northampton County. The areas are identified as suitable for Submerged Aquatic Vegetation (SAV) growth and restoration.

Hank Badger, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation. He noted that staff had received written comments from the Shellfish Growers of Virginia on Monday, January 26, 2015 in opposition to the proposed closure of the areas to leasing because the seagrass might grow in the area in the future. His comments are a part of the verbatim record.

Mr. Badger stated that based on the eelgrass success and the expected expansion into other unassigned areas of state bottom that could be leased for oyster ground, staff recommended approval of the proposed SAV set-aside areas in Cobb Bay for approximately 805 acres and in South Bay for approximately 963 acres for a period of five years. Staff also believed the set-aside areas should provide for the continued success of the Seaside SAV and bay scallop restoration efforts.

Commissioner Bull asked for public comments, in support of the request.

Bo Lusk, representing The Nature Conservancy, was sworn in and his comments in support are a part of the verbatim record. He requested the areas be protected by management to allow for the existence of eelgrass for future generations and the request before the Commission be approved.

Dr. Robert Orth, representing VIMS was sworn in and his comments in support are a part of the verbatim record. Dr. Orth explained he was the lead investigator in the seagrass restoration project and he was requesting that the areas be set aside for a period of five years. He stated it was a once in a life time opportunity to protect the environment and restore the bay scallop population. In answer to a question, he said that they had transplanted seed to the Seaside Eastern Shore and been successful because of the adjacent ocean water temperatures. He noted where there was no seagrass before there were acres of continuous seagrass.

Dr. Mark Luckenbach, representing VIMS was present and his comments are a part of the verbatim record. Dr. Luckenbach said this was brought to the Commission at their request to suggest where the seagrass would spread and grow. He said with management the grasses will continue to grow whether the bay scallop stocks are restored or not. He said no one would be able to seed all the acres where it was determined the seagrass would spread.

Commissioner Bull asked for comments in opposition to the request.

Kim Huskey, representing the Virginia Seafood Council was sworn in and her comments in opposition to the request are a part of the verbatim record. Ms. Huskey stated that the Council members were opposed to setting these areas aside because the Commission had the authority to deny an application for a lease in the area.

Ann Gallivan, representing her aquaculture business on the Seaside, was sworn in and her comments in opposition to the request are a part of the verbatim record. Ms. Gallivan explained that aquaculture was a multi-million dollar business and they were opposed to setting aside such a large tract.

Heather Lusk, representing H. M. Terry on the Seaside, was sworn in and her comments in opposition are a part of the verbatim record. Ms. Lusk stated they agreed with



Ms. Huskey and Ms. Gallivan and eelgrass was important, but they were also concerned with the setting aside such large tracts. She stated it was a dynamic area. She added the Commission could review and deny an application for a lease in these areas.

The public hearing was closed. After much discussion, Commissioner Bull asked for a motion.

**Associate Member Zydron moved to approve areas 1 and 2 and deny areas 3 and 4 as noted on the maps presented by staff with the requirement that an annual report on seagrass potential and seagrass losses be provided to the Commission. Associate Member Erskine seconded the motion. The motion carried, 6-1. Chair voted yes and Associate Member Neill voted no.**

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**8. REQUEST FOR PUBLIC HEARING:** Removal of a portion of Additional Clam Grounds as previously set aside by the Commission in 1930, within the Ware River, in response to an application to lease oyster planting ground.

Ben Stagg, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation. He provided slides. His comments are a part of the verbatim record.

Mr. Stagg explained that Ward Oyster Company (owned by Mr. John Vigliotta) had requested to lease approximately 100 acres of bottomlands at the northwestern most end of an area of additional clam grounds that were set aside by the Commission in 1930. While staff accepted the application, the area cannot currently be leased due to its designation as public clam grounds. The application includes a request to have the Commission determine if leasing some portion of the currently designated public clam ground may constitute a better use of this area. Staff believed such a request may have merit. Although staff was not aware of any clamming activity in the immediate area, a full public interest review was warranted to provide the Commission with feedback and information on current uses of the area to help determine if a modification of the current boundaries of the public clam ground was in the best interest of the Commonwealth. Staff therefore requested the Commission's approval to advertise for a public hearing on this matter at the February 24, 2015 Commission meeting.

Commissioner Bull asked for a motion.

**Associate Member Haynie stated that she supported the request for a public hearing. She moved to accept the staff recommendation to hold a public hearing at the February 24, 2015 meeting. Associate Member Erskine seconded the motion. The motion carried, 7-0. Chair voted yes.**

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- 9. **PLAINS MARKETING, LP**, requesting adoption of a resolution to approve the execution of permanent easements and right-of-ways for 3.694 acres of submerged land in the York River, as authorized by Chapter 368 of the 2014 Acts of Assembly.

Tony Watkinson, Chief, Habitat Management, gave the briefing on this matter. Mr. Watkinson noted that the fees and royalties (\$80,454.00) had been agreed to as authorized by the General Assembly, In response to a comment from Commissioner Bull he noted that the area of Public Oyster Ground established by the original Baylor Survey was non-productive. Staff recommended adoption of the resolution. His comments are a part of the verbatim record.

The resolution is as follows:

**RESOLUTION**

“WHEREAS, Chapter 368 of the 2014 Acts of Assembly authorizes the Virginia Marine Resources Commission to grant and convey to Plains Marketing, LP, its successors and assigns, upon such terms and conditions as the Commission, with the approval of the Governor and the Attorney General, shall deem proper, permanent easements and rights-of-ways needed for the expansion, construction, updating and maintenance of the Plains Marketing, LP, facility on the York River, described in said Chapter 368, including a portion of Baylor Survey, and

WHEREAS, the attached agreement has been prepared to grant Plains Marketing, LP, the permanent easements and rights-of-way authorized by Chapter 368 of the 2014 Acts of Assembly; and

WHEREAS, the description of the permanent easements and rights-of-way to be granted, which conforms to the description of the easements authorized to be granted as described in Chapter 368 of the 2014 Acts of Assembly, in the attachment agreement reads as follows:

[B]eginning at a point located along the northern line of “Public Ground No. 5,” said point having a coordinate value of North 3,612,505.00, East 12,083,115.69. Coordinate values based on Virginia State Plane Coordinate System, South Zone, NAD 1983, and expressed in U.S. Survey Feet. Thence from the point of beginning, along a bearing and distance of S 00° 30’ 17” E, 688.96 feet to a point; thence along a bearing and distance of S 85° 53’ 25” W, 220.44 feet to a point; thence along a bearing and distance N 00° 30’ 17” W, 628.69 feet to a point; thence along a bearing and distance of S 74° 59’ 59” W, 543.12 feet to a point; thence along a bearing and distance of N 14° 03’ 07” W, 29.52 feet to a point;

thence along a bearing and distance of N 75° 56' 53" E, 774.29 feet to the point of beginning; containing an area of 160,908 square feet or 3.694 acres; and

WHEREAS, Plains Marketing, LP, is willing to provide as the monetary sum in consideration for the grant of the above described easements and rights-of-way EIGHTY THOUSAND FOUR HUNDRED FIFTY-FOUR AND 0/100 DOLLARS (\$80,454) which represents a value of \$0.50 per square foot for the permanent easements and rights-of-way; and

WHEREAS, the Commission deems the terms and conditions set forth in the attached agreement to be proper;

NOW, THEREFORE, BE IT RESOLVED that the Commission hereby authorizes the Commissioner of the Virginia Marine Resources Commission, with the approval of the Governor and the Attorney General, to execute the attached agreement granting the above-described permanent easements and rights-of-way to Plains Marketing, LP, on the terms and conditions set forth in the attached agreement.”

After further discussion, Commissioner Bull asked for a motion.

**Associate Member Sessoms moved to accept the resolution and approve the easement. Associate Neill seconded the motion. Associate Member Erskine asked if there were any public comments or industry involvement. Mr. Watkinson stated it was enacted at the 2014 General Assembly session. Commissioner Bull stated that he did not remember that there was any opposition. The motion carried, 7-0. Chair voted yes.**

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**10. PUBLIC COMMENT.**

**Joseph Stephenson** requested that the Commission consider an exception so that he could maintain his commercial hook-and-line license. He explained that he was unable to meet the eligibility requirements to maintain his license for the year, 2015. His comments are a part of the verbatim record.

Commissioner Bull explained they must abide by the regulation, which only allows for medical or active-duty military exceptions. He added that the Commission did not have any documentation for either of these criteria.

No action was taken.

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**11. REPEAT OFFENDERS.**

**David A. Turner – was not present**

Mike Morris, Marine Police Officer, Sr., was sworn in and gave the briefing of the case of Mr. Turner. His comments are a part of the verbatim record.

Did take, catch and remove oysters from a condemned area, Code Section 28.2-810, a summons issued July 14, 2014; convicted in the Newport News General District Criminal Court September 25, 2014, fine \$300.00, court cost \$101.00.

Robert O'Reilly, Chief, Fisheries Management, explained that David A. Turner's commercial licenses were revoked under Code Section 28.2-232, for 12 months, December 10, 2013 through December 9, 2014, followed by one year probation, December 10, 2014 through December 9, 2015, owing to repeated disregard for conservation and health regulations for two warm weather violations and harvesting oysters without shellfish tags or an aquaculture harvester permit. The current violation occurred after Mr. Turner's licenses were revoked by the Commission.

Mr. O'Reilly read that in accordance with Code Section 28.2-232, staff recommended that the Commission revoke all of Mr. Turner's licenses to take or catch fish, shellfish, or marine organisms for a period of two years from the date of the Commission meeting, January 27, 2015, through January 26, 2017. He said that staff also recommended the Commission revoke Mr. Turner's fishing privileges, within the Commonwealth's tidal waters, for a period of two years from the date of the Commission meeting, January 27, 2015, through January 26, 2017.

Keith Skiles, Director of the Virginia Department of Health-Division of Shellfish Sanitation, was sworn in and his comments are a part of the verbatim record. Mr. Skiles responded to questions from the Board. He explained that they surveyed and established the lines for the condemnation areas and this area was closed because of the sewage treatment outfall. He also explained that the severity of a recall on the industry could affect just the James River if that is on the label or if more specific information is on label, just a part of the James River. He added that if people hear the shellfish are bad it could impact more than one area, maybe the whole state. He stated that it could take only one oyster to make someone sick.

After further discussion, Commissioner Bull stated the matter was before the Commission.

**Associate Member Zydron moved to accept the staff recommendation for two years revocation of all of Mr. Turner's licenses and permits and two years revocation of all of Mr. Turner's fishing privileges within the Commonwealth's tidal waters,**

**starting January 27, 2015, through January 26, 2017. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.**

**Timothy C. Breen** - was present and sworn in.

Ann Sullivan, Attorney for nine of the waterman, was present and her comments are a part of the verbatim record. Ms. Sullivan questioned the actions of the officers prior to the charges, whether the coordinates used were correct, whether all information was being provided for consideration, the placement of the oysters on a sanctuary area was safe, and whether there was evidence of the shellfish being condemned. She questioned how the area was marked and maintained. She added that the Wests' boat was broken down and the weather had been blown them into the area and they were not harvesting. She said her clients had all asked to have their GPS coordinates checked on their boat and that those numbers were not used in the record. She said this should be mitigated as there were no extensive history of violations by these watermen and this was their livelihood to support their families. She added it was not necessary to take away all privileges as the Commission can apply a lesser penalty.

Mike Morris, Marine Police Officer, Sr., stated that he took exception to the statements made and that he had no list of boats but followed the watermen and took readings from his GPS to determine whether the boats were harvesting inside or outside of the closed shellfish area. He explained the charges against Mr. Breen.

Did take, catch and remove oysters from a condemned area, Code Section 28.2-810, a summons issued July 14, 2014; convicted in the Newport News General District Criminal Court September 25, 2014, fine \$300.00, court cost \$101.00.

Mr. O'Reilly read that in accordance with Code Section 28.2-232, staff recommended that the Commission revoke all of Mr. Breen's licenses to take or catch fish, shellfish, or marine organisms for a period of one year from the date of the Commission meeting, January 27, 2015, through January 26, 2016. He said that staff also recommended the Commission revoke Mr. Breen's fishing privileges, within the Commonwealth's tidal waters, for a period of one year from the date of the Commission meeting, January 27, 2015, through January 26, 2016.

Mr. Breen in response to his attorney's questions explained that he was on the vessel with Mr. Turner who was the captain of the boat. He stated he was the cull person and had no control over where the boat was going. He stated also this was his one and only time. His comments are a part of the verbatim record.

Richard Green, leaseholder, was sworn in and his comments are a part of the verbatim record. He answered questions from Ms. Sullivan the Attorney. Mr. Green stated he had had the lease for 7 or 8 years and he was aware of the condemnation as he tries to maintain PVC pipes to indicate where the line is for the condemnation. He stated also

that he tells everyone who works for him to stay in the clean area. He said he thought the most that would happen was they would have a fine to pay and it would be over.

Commissioner Bull stated Mr. Green’s comment be allowed for all cases.

After much discussion and a short break in the meeting to allow the VMRC Counsel and the defendants’ attorney to discuss the matter, it was agreed to that all of the following individuals would be considered together and under one motion.

- |                    |                        |                 |
|--------------------|------------------------|-----------------|
| Timothy C. Breen   | Joseph L. Carter       | William T. West |
| William E. Crewe   | William E. Crewe, Jr.  |                 |
| Kenneth L. Green   | William G. Greene, Jr. |                 |
| William P. Robbins | William A. West        |                 |

**After further discussion, Associate Member Zydron moved for all licenses and permits and all fishing privileges, in the waters of the Commonwealth, to be revoked for a two year period, starting January 27, 2015, through January 26, 2017, but the Commission would suspend the revocations and place all parties on one year probation, starting January 27, 2015, through January 26, 2016. He further moved that if there were any violations and convictions by these individuals applicable to Title 28.2 of the Code of Virginia or the VMRC Regulations during the one year probation period, all licenses and permits and fishing privileges, within the Commonwealth’s tidal waters, would be revoked administratively without notice or hearing for the remainder of the two year revocation period, ending January 26, 2017. Associate Member Sessoms seconded the motion. The motion carried, 5-2. Chair voted no and Associate Member Erskine voted no.**

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**15. RECOMMENDATION OF THE RECREATIONAL FISHING ADVISORY BOARD (RFAB):** Results and recommendations from the review of the King and Queen County Proposal for a Recreational Pier.

Alicia Nelson, RFAB Coordinator, gave the briefing of the information provided in the staff’s evaluation. Her comments are a part of the verbatim record.

Ms. Nelson explained that at the December 2014 Commission meeting, the Commission heard the RFAB recommendation to not fund the King and Queen County Recreational Fishing Pier because the project was located in a designated freshwater area and it did not provide substantial benefits to the saltwater angler. After much discussion and comments by Delegate Keith Hodges and King and Queen County representatives Tom Swartzwelder and Lewie Lawrence, the Commission voted to refer the item back to the RFAB with the Commission’s recommendation to provide 2/3 funding of the pier. Three motions were made on the revised proposal by the RFAB members. A final motion was

made by Mr. Schultz to recommend funding at 50% of the total cost of the pier project, not to exceed \$91,236. Mr. Crowling seconded the motion, and the motion passed with eight in favor and one against.

Staff recommended funding the King and Queen County Recreational Fishing Pier project at 2/3 of the total project cost, not to exceed \$121,647.33, from the VSRFDF.

After some discussion, Commissioner Bull asked for a motion.

**Associate Member Sessoms stated that he agreed with the 2/3 funding coming from the RFAB, but was still uncomfortable with what is and what is not salty. He moved to approve the staff’s recommendation. Associate member Erskine seconded the motion. The motion carried, 6-1. Chair voted yes and Associate Member Neill voted no.**

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- 12. FAILURE TO REPORT:** Cases involving failure to report commercial harvests, in accordance with Chapter 4 VAC 20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting."

**Hayes L. Angle** – Not present

Stephanie Iverson, Fisheries Management Manager, gave the briefing of the case of non-compliance for mandatory reporting. She explained that Mr. Angle was not present and staff had not heard from him that he could not attend the meeting. She explained also that the Commission could decide whether to hear the case or continue it. In response to a question, Ms. Iverson explained that the gentleman was 70 plus years old and staff was told that he had complications from a fall.

**After some discussion, Associate Member Neill moved to continue the case until the February Commission meeting. Associate Member Erskine seconded the motion. He asked about what contact staff had had in this matter. Ms. Iverson explained that staff did speak with Mr. Angle’s wife on December 23, 2014 and further contact attempts have been made since that date. The motion carried, 7-0. Chair voted yes.**

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- 13. PUBLIC HEARING:** Proposed adoption of the 2015 commercial black sea bass quota as part of Chapter 4 VAC 20-950-10 et seq. “Pertaining to Black Sea Bass.”

Rachael Maulorico, Fisheries Mgmt. Planner, gave the briefing of the information provided in the staff’s evaluation. She provided a powerpoint presentation. Her comments are a part of the verbatim record.

Ms. Maulorica explained that following the adoption of the emergency amendment at the December 9, 2014 Commission meeting, the National Marine Fisheries Service (NMFS) released a 2015 coastwide commercial black sea bass quota that was reduced by 22,564 pounds, as a result of higher than estimated coastwide commercial discards in 2014. The NMFS adjusted quota will result in Virginia being allocated 442,584 pounds, as compared to the ASMFC quota of 448,000 pounds for 2015. For 2015, the commercial black sea bass bycatch fishery will be allocated 40,000 pounds, and the commercial black sea bass directed fishery will be allocated 402,584 pounds.

Ms. Maulorico said that staff recommended the Commission adopt amendments to Chapter 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass" to establish the 2015 quota as 442,584 pounds, with the commercial black sea bass directed fishery quota as 402,584 pounds and commercial black sea bass bycatch fishery quota as 40,000 pounds.

Commissioner Bull opened the public hearing for comment, pro or con. There were none. He stated the matter was before the Commission.

**Associate Member Neill moved to accept the staff recommendation to establish the 2015 quota as 442,584 pounds, with the commercial black sea bass directed fishery quota as 402,584 pounds and commercial black sea bass bycatch fishery quota as 40,000 pounds. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.**

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**14. REQUEST FOR EMERGENCY AMENDMENTS:** Proposed emergency amendments to Chapter 4 VAC 20-450-10 et seq. "Pertaining to the Taking of Bluefish," to establish the 2015 commercial bluefish quota.

Rachael Maulorico, Fisheries Mgmt. Planner, gave the briefing of the information provided in the staff's evaluation. She provided a powerpoint presentation. Her comments are a part of the verbatim record.

Ms. Maulorico explained that the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fisheries Management Council (MAFMC) have established the 2015 coast-wide bluefish commercial quota as 5.12 million pounds. This is a decrease from the 2014 quota of 7.49 million pounds because of scientific uncertainty regarding the estimated stock biomass. Virginia receives 11.8% of the coast wide quota which results in a 2015 Virginia bluefish commercial quota of 608,230 pounds. This is a 31% decrease from 2014.

Ms. Maulorico said that staff recommended the Commission adopt emergency amendments to Chapter 4 VAC 20-450-10 et seq., "Pertaining to the Taking of Bluefish", to establish the 2015 commercial bluefish quota as 608,230 pounds and advertise a public



hearing for the February 24, 2015 Commission meeting to make the amendments a permanent part of the regulation.

Commissioner Bull asked for public comment, pro or con. There were none. He stated the matter was before the Commission.

**Associate Member Erskine moved to accept the staff recommendation to adopt the emergency amendments to establish the 2015 commercial bluefish quota and for a public hearing at the February 24, 2015 Commission meeting to make the amendments permanent. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.**

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**16. DISCUSSION:** Proposed amendments to Chapter 4 VAC 20-610-10 et seq., “Pertaining to Commercial Fishing and Mandatory Harvest Reporting,” to establish requirements of authorized blue crab fishery agents.

Joe Cimino, Fisheries Management Manager Sr., gave the briefing of the information provided in the staff’s evaluation. His comments are a part of the verbatim record.

Mr. Cimino explained that the 2013 cap of 168 total agents allowed was set as a year specific number in regulation when it was established. Chapter 4VAC20-610-10 et seq., “Pertaining to Commercial Fishing and Mandatory Harvest Reporting” was also specific to the 2014 season and needs to be amended for 2015. By removing the year for this cap, the limit will be set from this day forward.

Mr. Cimino said that staff recommended advertising for a February public hearing to amend Chapter 4 VAC 20-610-10 et seq., “Pertaining to Commercial Fishing and Mandatory Harvest Reporting”, to limit and specify the number of agents in the crab fishery annually.

Robert O’Reilly explained that the CMAC wanted to know the crab ‘agency’ was being handled as ongoing with certain criteria limits other than temporary agents, such as for medical purposes and for those individuals on active duty military.

Commissioner Bull explained that this was a request for a February public hearing.

**Associate Member Haynie, moved to accept the staff recommendation for a public hearing at the February 24, 2015 Commission meeting. Associate Member Close seconded the motion. The motion passed, 7-0. Chair voted yes.**

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- 17. **DISCUSSION:** Proposed amendments to Chapter 4 VAC 20-270-10 et seq., "Pertaining to Crabbing," to establish limits for the use of fish pots by active crab pot or peeler pot fishermen.

Joe Cimino, Fisheries Management Manager Sr., gave the briefing of the information provided in the staff's evaluation with a powerpoint presentation. His comments are a part of the verbatim record.

Mr. Cimino said that staff recommended advertising for February public hearing to consider amendments to Chapter 4 VAC 20-270-10 et seq., "Pertaining to Crabbing", that limit the use of fish pots by any individual who is an active crab pot or peeler pot fisherman. Staff also recommended amending the time period for the fish pot prohibition from March 11- 16 to March 12 - 16.

Commissioner Bull stated this was a request for a public hearing.

**Associate Member Haynie moved to accept the staff recommendation for a public hearing at the February 24, 2015 Commission meeting. Associate Member Close seconded the motion. The motion carried, 7-0. Chair voted yes.**

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- 18. **REQUEST FOR PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-620-10 et seq., "Pertaining to Summer Flounder," to modify the commercial summer flounder trip limit and season dates.

Robert O'Reilly, Chief, Fisheries Management, gave the briefing on this matter. His comments are a part of the verbatim record.

Mr. O'Reilly explained that staff recommended advertising for a February public hearing to consider amendments to modify the start date for the directed landings period, when summer flounder from federal waters may be landed in Virginia, and lower the landing limit for that period from 12,500 pounds to an amount not less than 7,500 pounds. He explained this item was requested by the seafood industry to maximize the value of the allowable quota by spreading out the landings with the hope of yielding the maximum value of the fish by preventing a flooding of the market.

Commissioner Bull asked for a motion.

**Associate Member Erskine moved to approve the staff recommendation for a public hearing at the February 24, 2015 Commission meeting. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.**

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**Commission Meeting**

**17300  
January 27, 2015**

There being no further business, the meeting was adjourned at approximately 4:36 p.m.  
The next regular Commission meeting will be Tuesday, February 24, 2015.

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John M. R. Bull, Commissioner

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Katherine Leonard, Recording Secretary