

MINUTES

Commission Meeting

July 25, 2017

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 Bull	Commissioner
Chad Ballard	
Christina Everett	
Wayne France	
Heather Lusk	Associate Members
Ken Neill, III	
John Zydron	
John Tankard	
Kelci Block	Assistant Attorney General
Laurie Naismith	Director, Public Relations
Matthew Hull	Policy Manager
Katherine Leonard	Recording Secretary
Jane McCroskey	Chief, Administration-Finance
Todd Sperling	Bs. Systems Specialist, Sr.
Dave Lego	Bs. Systems Specialist
Robert O'Reilly	Chief, Fisheries Mgmt.
Joe Cimino	Deputy Chief, Fisheries Mgmt.
Andrew Button	Head, Conservation/Replenishment
Stephanie Iverson	Fisheries Mgmt. Manager, Sr.
Jill Ramsey	Fisheries Mgmt. Specialist
Ryan Jiorle	Fisheries Mgmt. Specialist
Nancy McElligott	Fisheries Mgmt. Specialist
Alex Aspinwall	Fisheries Mgmt. Specialist
Adam Kenyon	Fisheries Mgmt. Specialist
Chris Davis	Fisheries Mgmt. Specialist
Jennifer Farmer	Regulatory Coordinator

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Rick Lauderman	Chief, Law Enforcement
Warner Rhodes	Deputy Chief, Law Enforcement
Jamie Hogge	Marine Police Officer
Henry Reichle	Marine Police Officer
Steve York	Marine Police Officer
William Thompson	Marine Police Officer
Fred Mitchell	Marine Police Officer
Richard Pruitt	Marine Police Officer
Tony Watkinson	Chief, Habitat Management
Chip Neikirk	Deputy Chief, Habitat Management
Mark Eversole	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Rachael Peabody	Environmental Engineer, Sr.
Jeff Madden	Environmental Engineer, Sr.
Justin Worrell	Environmental Engineer, Sr.
Hank Badger	Environmental Engineer, Sr.
Jay Woodward	Environmental Engineer, Sr.
Ben Stagg	Dir., Shellfish Aquaculture, Leasing and Mapping
Daniel Faggert	Surveyor, Engineering/Surveying
Paul Rogers	Surveyor, Engineering/Surveying
Bradley Reams	Program Support Technician

Virginia Institute of Marine Science (VIMS):

Lyle Varnell Emily Hein Mark Luckenbach Rom Lipcius

Others present:

Robert Oliver	Lewis Wright	Teresa McCready
George Arnold	Peter Blount	Craig Stariha
Ed Crawford	Sandra Harris	Mike Aschkenas
Mark Brownell	Pete Conn	Kevin Carroll
Rick Wester	Rich Wester	Paul Ledoux
Christine Conrord	Diana Faison	Jeff Flood
Travis Croxton	Frank Gurdziel	Gloria Gurdziel
John Streeper	Brad Hiltz	George Yates
Tom Langley	Harris Gerald	John K. Wiersil
Guy Nevoret	Chris Flint	David Butler
Pete Owen	Mark Dodson	Will Towles
Robert Hull	Gerald Mittendorff	Daniel Adams
Claire Newbert	Anthony Marchetti	Patrick Oliver
Patty VonOhlen	Susannah Baker	Catherine Frey

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William Nettles	Steve Brice	Taryn Rowland
Aaron Rowland	Marcus Clements	Lauren Podiah
Joe Waldo	Gerry Zeno	Deema Arron
Anne Greenberg	A. F. Troy	Rich Webber
Mike Gibson	William Viverette	Raymond Elbourn
Beverly Elbourn	Richard Hayes	Mark Sanford
Andy Lacatell	Chris Moore	Tamara Dietrich

and others.

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Commissioner Bull called the meeting to order at approximately 9:34 a.m. Associate Member Minor was absent.

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

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Commissioner Bull introduced a new Member of the Commission Board, Christina Everett, who has been appointed to a four-year term. Mrs. Everett is from Norfolk, and is the Virginia Assistant and Hampton Roads Director of the Chesapeake Bay Foundation.

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Coast Guard Capt. Richard J. Wester, who is Captain of the Port of Hampton Roads, presented Virginia Marine Master Police Officer Richard W. Pruitt with the Coast Guard Sector Hampton Road's "Command Coin" in a ceremony during the Virginia Marine Resources Commission monthly board meeting. The U.S. Coast Guard honored Officer Pruitt of Tangier for his "vital assistance" in the investigation of the sinking of a commercial fishing vessel in April, which resulted in the death of a Tangier Island waterman and the rescue of his son.

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

Tony Watkinson, Chief, Habitat Management, explained that Item 11. Calvin W. West, Oyster Ground Lease Application 2015-304, was pulled from the agenda because the protest had been resolved.

Robert O'Reilly, Chief, Fisheries Management, responded no changes for Fisheries Items.

Associate Member Zydron moved to approve the agenda, as amended. Associate Member France seconded the motion. The motion carried, 8-0. Chair voted yes.

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MINUTES: Commissioner Bull asked if there were any changes or corrections to be made to the June 27, 2017 Commission meeting minutes. There were no changes.

Associate Member France moved to approve the minutes, as presented. Associate Member Tankard seconded the motion. The motion carried, 6-0-2. Chair voted yes. Associate Members Ballard and Everett abstained, as they did not attend the meeting. Associate Member Everett was new appointee to the Board by the Governor.

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

Tony Watkinson, Chief, Habitat Management, reviewed the two items for the Board. His comments are a part of the verbatim record.

The public hearing was opened. As there were no public comments, Commissioner Bull stated the public hearing as closed and the matter was before the Commission for discussion and action.

Associated Member Tankard moved to approve the projects, as presented. Associate Member Ballard seconded the motion. The motion carried, 8-0. Chair voted yes.

2A. DEPARTMENT OF THE NAVY, #17-0674, requests authorization to remove and replace the existing wharf and fender system along Wharf E, and to remove and replace existing structures along Pier A and the Small Craft Basin, at the U.S. Navy Craney Island Fuel Terminal, located along the Elizabeth River, on the east side of Craney Island, in Portsmouth.

Permit Fee	\$100.00
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2B. VIRGINIA ELECTRIC AND POWER COMPANY, #17-0265, requests authorization to remove and replace two steel lattice electric transmission towers, on existing concrete foundations in the James River and to replace one (1) circuit (11 lines) of 500kV electric transmission lines, a minimum 180 feet above a 4,109 linear foot section of the James River, from Wilcox Wharf to Windmill Point, in Charles City and Prince George Counties. Staff recommends approval with a royalty of \$40,280.00 for tower encroachment over 20,140 square feet of State-owned submerged lands at a rate of \$2.00 per square foot, and \$12,327.00 for encroachment of aerial transmission lines over 4,109 linear feet of State-owned submerged land at a rate of \$3.00 per linear foot.

Royalty Fees (encroach 20,140 sq. ft. @ \$2.00/sq. ft.)	\$40,280.00
Royalty Fees (encroach 4,109 ln. ft. @ \$3.00/ln. ft.)	\$12,327.00
Permit Fee	\$ 100.00
Total Fees	\$52,707.00

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3. CONSENT AGENDA ITEMS:

3A. TOWN OF COLONIAL BEACH, #17-0400, requests, on behalf of their licensees, Mr. and Mrs. Edward Jones, after-the-fact authorization to retain and complete the construction of a 78.5-inch wide by 133-inch tall, roofed security gate, adjacent to town property situated along Monroe Bay at 1004 Monroe Bay Avenue in Westmoreland County. The licensees have agreed to a \$1,000.00 civil charge, triple royalties and triple permit fees in lieu of further enforcement action.

Tony Watkinson, Chief, Habitat Management, reviewed the consent item for the Board. His comments are a part of the verbatim record.

Mr. Watkinson noted that since the marina is sited on upland property owned by the Town of Colonial Beach, the new owners were required to obtain a License Agreement with the Town to operate the marina.

Mr. Watkinson explained that the lease agreement has been approved by the Town and there have been no objections to the project resulting from the VMRC public interest review and any adverse impacts appeared to be minimal. Staff recommended approval of the fence and the acceptance of the Jones' agreement to pay a civil charge of \$1,000.00, a triple permit fee of \$75.00 and a triple encroachment royalty of \$184.50 based upon the encroachment of the structure on 41 square feet of State-owned submerged land at a triple rate of \$4.50 per square foot, in lieu of further enforcement action.

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It was noted that no one was present for this matter.

Commissioner Bull opened the public hearing for comments, but no one indicated that they wished to comment so the public hearing was closed. He stated that the matter was before the Commission for discussion or action.

Associate Member Tankard moved to approve the application. Associate Member Ballard seconded the motion. The motion carried, 8-0. Chair Voted yes.

Royalty Fees (encroach 41 sq. ft. @ \$4.50/sq. ft.)	\$ 184.50
Civil Charge	\$1,000.00
Permit Fee	\$ 75.00
Total Fees	\$1,259.50

- 4. **CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.** No closed meeting was necessary.

- 5. **CRAIG STARIHA, #17-0782,** requests authorization to install two (2) rows of 12-inch diameter sand filled filter socks, staked and spaced 3.5 feet apart on center, approximately 15 feet landward of mean low water and encircling the vegetated upper elevations of a 0.04 acre island, north of Tar Bay in the James River in Prince George County. The area between the two socks will be stabilized with wetland plantings spaced at one-foot centers. The project requires a wetlands permit.

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

Mr. Eversole explained that Habitat Management staff held a public hearing at the VMRC main office on July 21, 2017. No public comment was made.

Mr. Eversole said that due to the nature of the project and the planting of 362 square feet of non-vegetated tidal wetlands, no compensation was deemed necessary under VMRC's Wetlands Mitigation-Compensation Policy and Supplemental Guidelines. Staff evaluated the merits of the project and considered all of the factors contained in §28.2-1302(10) (B) of the Code of Virginia and the Wetlands Mitigation-Compensation Policy and Supplemental Guidelines. Staff recommended approval of the project, with the following special conditions:

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1. The permittee agrees to monitor the project and provide post construction monitoring reports to the Commission at 6 month intervals for two years following completion of the project. Photo stations will be established, one at each of the 4 compass points on the island. Monitoring reports will contain photographs at each station taken at, or near low tide. Elevation changes will be measured and reported at each of the photo station locations, to document the accretion or loss of sand.
2. The permittee will monitor the wetland plantings and guarantee to replace dead or missing plants, one year following the completion of the project, to maintain a 90% survival rate.

Craig Stariha, applicant, was sworn in and his comments are a part of the verbatim record. He explained that he had enlisted the help of the VCU Rice Rivers Center for both the installation of socks and plants as well as monitoring potential sand accretion and plant survival rates and the students were allowed to utilize it for their projects.

Commissioner Bull opened the public hearing for pro or con comments. There were none, so the public hearing was closed. He stated that the matter was before the Commission for discussion and action.

Associated Member Tankard moved to accept the staff recommendation for approval of the permit with conditions. Associate Member France seconded the motion. The motion carried, 8-0. Chair voted yes.

No applicable fees.

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6. **VIRGINIA BEACH PUBLIC WORKS, #16-0516**, requests authorization to mechanically dredge approximately 55,000 cubic yards of submerged bottomlands to achieve maximum depths of -4.5 feet mean low water as part of the Chesapeake Colony neighborhood dredging proposal within Pinetree Branch, London Bridge Creek, and associated tributaries, including the installation of 18 new channel markers. The project is protested.

Justin Worrell, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record. Mr. Worrell indicated that two protestants could not attend but said they still protested the project.

Mr. Worrell explained that the majority of the proposed dredging associated with this project is over private property within the manmade canals or basins of the neighborhood, not within the Commission's jurisdiction over State-owned submerged lands. Of the proposed dredging within the Commission's jurisdiction, a substantial amount is also

considered maintenance dredging as the proposed areas were previously dredged under earlier Commission permits.

Mr. Worrell said that many of the protestants' concerns center around the City's specific development of the neighborhood SSD, and how this neighborhood district has been identified, taxed, and represented by the City. While staff recognizes the significance of these issues to the protestants, especially to the unwilling participants of the SSD, such issues are outside of the purview of the Commission and are left to the local government to regulate and / or the local circuit courts to adjudicate. The portion of dredging proposed over State-owned submerged lands within the Commission's purview appears to be appropriately planned and designed, regardless of whether the request is coming from the City as part of the SSD, or from a private neighborhood group. New dredging and maintenance dredging events are very common along the waterways in Virginia Beach and have been previously authorized for private projects, locality sponsored SSD projects, and local municipal channels. While staff was sensitive to the protests of the neighbors, it was felt that the overall benefits of this dredging proposal to serve the Chesapeake Colony residents outweighed the impacts, and that any adverse environmental impacts associated with the dredging would be minimal and temporary. Therefore, staff recommended approval of the proposal as submitted, including two future additional maintenance cycles, as requested by the applicant, provided that the Commission permit had not expired, and that the designated offloading location had all requisite regulatory approval. If approved, the final permit would include the standard dredging conditions such as a pre-dredge meeting with the applicant and contractor and the requirement that a post-dredge bathymetric survey be submitted within 30 days of the completion of the dredging.

Daniel Adams, City representative, was sworn in and his comments are a part of the verbatim record. Mr. Adams stated that the staff presentation was good. He stated also that this is a city dredging program to restore navigation for all users. He said that this was the largest project and largest application and there were others to be added. In response to a question, he stated there was an 82% approval.

Commissioner Bull opened the public hearing.

Frank Gurdziet, was present and sworn in and his comments in support are a part of the verbatim record.

Tom Langley, Engineer with Langley and McDonald, was sworn in and his comments are a part of the verbatim record. Mr. Langley noted that there was a sunset of getting this dredging done of 16 years which would include three dredging events. He said after that it would maintain itself.

The hearing was opened for those opposed to comment. These individuals were sworn in and their comments in opposition are a part of the verbatim record. There was concern with the adverse impact to the properties in the area, wildlife, noise impact, property

values and increase in taxes, making the waterway fit the desire for larger boats, adequate spoil sites, and concerned that no Environmental Impact study was done.

Sandra Harris

Mike Aschkenas

Anna Greenberg

After further discussion, Commissioner Bull closed the public hearing.

Associate Member Zydron moved to accept the staff recommendation for approval. Associate Member Ballard seconded the motion. Commissioner Bull stated that he agreed with approval as the impacts would be short- term. The motion carried, 7-1. Chair voted yes. Associate Member Everett voted no.

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7. CITY OF NEWPORT NEWS, #17-0348, requests authorization to install two (2) storm water outfalls, 54-inches and 60-inches in diameter, two (2) breakwaters 18 feet wide by 92 feet long and 21 feet wide by 58 feet long, 810 square feet of riprap armor stone upon the proposed storm water outfalls, and two (2) temporary cofferdams at 225 River Road in the City of Newport News. The project is protested.

Mike Johnson, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation with slides. His comments are a part of the verbatim record.

Mr. Johnson explained that staff understood the concerns of the protestants regarding the proposed storm water project and its potential impacts to water quality. While the VMRC does not specifically regulate water quality, staff did coordinate with the DEQ Storm Water Division before proceeding with the public hearing for the project. DEQ has indicated that the storm water project in its current form is acceptable. They also noted that the City of Newport News has all of its permits required by law and is continuing to meet requirements for reducing storm water runoff pollution in the future. Therefore, staff considered it appropriate to proceed with processing of this application.

Mr. Johnson stated that the City had also indicated to staff they intended to improve the storm water runoff in this area in the future by installing best management practices to reduce bacterial pollution as well as other forms of pollution. This would occur at a later date yet to be determined.

Mr. Johnson noted that the public also cited concerns with protecting the beach for recreational purposes. While the installation of the storm water outfalls will create new structures in wetlands, the City is taking steps to improve the area for the public and protect it from erosion. Currently, at high tide there is no area available for recreation as the water reaches the existing bulkhead. With the plan to install breakwaters it is hoped

that some sand will accumulate behind the breakwaters and a beach will form that would provide additional recreational opportunities.

Mr. Johnson explained that anticipated impacts to fisheries will be minimal, as all of the proposed work will be done in the near shore and intertidal areas within coffer dams. With regard to the stated concerns regarding erosional impacts to adjacent property owners, VIMS has reviewed the breakwater portion of the project and they did not indicate any concerns associated with increased erosion or damage to adjacent properties.

Mr. Johnson stated that staff had evaluated 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, as proposed.

Commissioner Bull asked for a city representative to comment.

Marcus Clements, city representative, was sworn in and his comments are a part of the verbatim record. Mr. Clements stated that area included from Stratford Road to Hopkins Road and 30 or 40 acres. He stated they looked at other alternatives and agreed that two pipes would work. He said that in the drainage area a UV disinfection would be used. As a result of questions, he added that they would use a hydro-dynamic separator and a vacuum when there are rainstorms. He explained there would be a new pump station with a new valve to take the wastewater to a station above ground and filter and pick up the sediments before being return to the water. He stated that the City was not required to do this, but they were.

Commissioner Bull opened the public hearing.

Peter Blount, City resident and adjoining property owner, was sworn in and his comments are a part of the verbatim record. He said he had a handout of samples tested for bacteria, which he explained. He said he agreed that it did need improving, he just did not agree with the method. He said for the expanding of the drainage system in this area of the James River the filters were not adequate. He said there needed to be a restoration of the beach because of the erosion. He noted that there was wildlife in the area as well as natural resources in the James River were harvested commercially. He said this should be considered carefully as there was undefined impacts from the expansion to the adjoining properties.

Catherine Frey, resident of Hilton for 44 years, was sworn in and her comments are a part of the verbatim record. Ms. Frey stated she belongs to a group called "Friends of the James River in Hilton Beach. A Task Force started in 2016 and plans were started to address water quality in public areas to the James River. She stated she was originally opposed because of the increased bacteria introduction and the increased sediments from the railroad road tracks were also a concern. There was also another concern regarding

shoreline stabilization. She said she met with City employees to ask that they treat the additional outfall and it will be considered by the Engineers. She stated she supported the permit conditions and the City was using best management practices and regularly testing water to make sure it was working.

Claire Newbert, was sworn in and her comments are a part of the verbatim record. Ms. Newbert said that such a large amount of water would impact the waterways and plans to clean the bay by 2025. She said there is a need to keep the flooding down but to still protect the waterways. She said with the two pipes, the beach could be closed and it would impact the oyster and crab industry and sport fishing as well as tourism and wildlife.

Mr. Clements explained that he was working with the citizens and HRSD and made plans to test the outfall and there is a plan in the works to restore the beach. He said they are trying to do their due diligence and to keep promises made.

Commissioner Bull closed the public hearing and stated the matter was before the Commission for discussion and action.

After further discussion, Associate Member Ballard moved to accept the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 7-1. Associate Member Everett voted no.

Permit Fee	\$100.00
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- 8. **RAPPAHANNOCK RIVER OYSTERS LLC, #17-0570**, requests authorization to install oyster aquaculture structures within a nine (9) acre area and a one (1) acre area of their 61.57 acre oyster ground lease (Plat File # 21229) in Watts Bay, Accomack County. The project is protested by nearby property owners.

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

Mr. Badger explained that the Virginia Marine Resources Commission had been generally supportive of commercial shellfish aquaculture proposals, especially when there were no apparent use conflicts, little likelihood of detrimental impacts to the environment and little opposition. Although this project was relatively large it appeared to meet those criteria. The original proposal was closer to shore and would have impacted access to navigable water by the riparian property owners in the area. However, since the applicant revised their application by moving the proposed aquaculture structures offshore a minimum of 300 feet and has left 80-foot wide access channels for navigation through the proposed structures, staff believed the navigational impacts have been minimized.

Mr. Badger stated that staff understood the objections raised by the protesters, but staff believed that the applicant had worked to minimize the potential impacts to their property by moving the site further offshore. In addition, staff believed that a surety bond, as has been required for other large aquaculture proposals in the Commonwealth, would provide funds to allow the Commission to remove the structures in the event the applicant was unable or unwilling to do so.

Travis Croxton, representing the applicant, was present and his comments are a part of the verbatim record. Mr. Croxton explained that he had visited Australia and got the idea of using these containers because they can be easily unclipped for recreational boaters. He said he had not seen any recreational boating in the area and the low water here would make the boat run aground. He stated the markers would help and it would not be too close to the channel. He said that as far as the view, it was only one acre area involved and would not block activity as the activity is mostly intertidal. He said he sees other Taylor floats being used in the area by other leaseholders and this was more improved and more efficient. When asked if he agreed with the special condition recommended by staff, he responded yes.

Commissioner Bull opened the public hearing.

Lewis Wright was sworn in and his comments in opposition are a part of the verbatim record. He said he was opposed to cages on the bottom and floating. He stated it would block access to the restaurant. He stated this was the beginning of the end for having access by boat to the fishing grounds. He noted that other oyster grounds had been leased and other leaseholders might want to do the same. He stated that there were 5 or 6 families in Watts Bay that would be impacted and this activity was not needed here.

In his rebuttal comments, Mr. Croxton stated that there was no recreational boating in front of the property. He stated also that they were working with residents and he could not see that it would impede other users.

Commission Bull closed the public hearing and stated the matter was before the Commission for discussion and action.

After further discussion, Associate Member Ballard moved to approve the project with the permit conditions. Associate Member Lusk seconded the motion. The motion carried, 8-0. Chair voted yes.

Royalty Fees (encroach 173,900 sq. ft. @ \$005/sq. ft.)	\$869.50 (Annual royalty fee)
Permit Fee	\$100.00
Total Fee	\$969.50

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9. **REBECCA SMITH, #16-1982**, requests authorization to install 438 linear feet of riprap revetment, channelward of an existing bulkhead, along the Lafayette River, at the residence of 17 Holly Lane in Norfolk. This project is protested by an adjacent property owner.

Rachael Peabody, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation with slides. Her comments are a part of the verbatim record.

Ms. Peabody explained that Mean Low Water (MLW) is the average of all the low tides occurring over a lunar epoch of approximately 19 years. The location of MLW identifies the channelward limit of riparian property in Virginia and is the landward limit of State-owned submerged lands. For basic field identification purposes, this line can be determined by using field identifiers during a general low tide. To identify this line legally, a surveyor must identify elevations of the land as they relate to a generally accepted tidal datum through a survey process. This survey was completed and stamped as certified and true by Waterway Surveys for the areas adjacent to the applicant's property on July 18, 2016. It is staff's opinion that the survey likely represents a more accurate depiction of MLW than the informal 14-day analysis presented by the Popes. Nevertheless, even if MLW was determined to be further landward or channelward of the depicted alignment, staff's opinion regarding the project would not change. The proposed revetment will protect the property from erosion and although it will still result in a hardened shoreline, the interstitial spaces in the rock provide more habitat than a replacement bulkhead and the revetment should also dissipate, rather than reflect, detrimental wave energy.

Ms. Peabody stated that after evaluating the merits of the project and considering all of the factors contained in §28.2-1205 of the Code of Virginia staff recommended approval of the project, as proposed, with a condition that the contractor must remove live oysters along the project area and place them in a subtidal habitat before construction.

David Butler, applicant's representative was sworn in and his comments are a part of the verbatim record. Mr. Butler stated he had prepared the drawings while working with the City of Norfolk and VMRC staff and he agreed to move 80' seaward with the project. He stated he personally went out to find the MLW and had a surveyor do a bathymetric survey. He stated the Wetlands Board and the Corps had approved the project.

Commissioner Bull opened the public hearing and there were no public comments. He stated the public hearing was closed and the matter was before the Commission for discussion and action.

Associate Member Ballard moved to approve the staff recommendation. Associate Member Tankard seconded the motion. The motion carried, 8-0. Chair voted yes.

10. **MICHAEL H. GIBSON, Oyster Planting Ground Applications #2014-283 and #2014-285**, requests authorization to lease 14.74 acres of Oyster Planting Ground in Chincoteague Bay near Swans Gut in Accomack County. The project is protested by an adjacent oyster ground leaseholder.

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

Mr. Badger explained that since a portion of the applicant's request (#2014-285) falls within the condemned shellfish area in Swans Gut, Mr. Gibson reduced his application to only the area that is open to direct harvesting of shellfish.

Mr. Badger said that the Stoudts' concerns with navigation into Swans Gut are reasonable. The channel at the mouth of Swans Gut is approximately 30 feet wide and has the remains of a 40-foot boat on the north side of the small channel. Any activity in this area could impact navigation. Staff cannot support the leasing of the small channel into Swans Gut.

Mr. Badger explained that based on §§ 28.2-605 and 28.2-609 of the Code of Virginia, staff recommended approval of Mr. Gibson's applications minus the condemned shellfish area and the small channel at the mouth of Swans Gut as surveyed and mapped for 14.05 Acres.

Mike Gibson, applicant, was present and his comments are a part of the verbatim record. Mr. Gibson explained that he knew of only one crabber who comes to this area and it was a small area he was trying to lease with good water flow. When asked if he would like to lease the entire 14.74 acres, he responded yes.

Commissioner Bull opened the public hearing and there were no public comments. He closed the public hearing and stated the matter was before the Commission for discussion and action.

Associate Member Tankard moved to approve the entire 14.74 acres applied for originally. Associate Member France seconded the motion. The motion carried, 8-0. Chair voted yes.

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11. **CALVIN WAYNE WEST, Oyster Planting Ground Application #2015-304**, requests authorization to lease approximately 32.00 acres within Monday Creek in Gloucester County. The application is protested by a nearby property owner.

Protest Resolved – Pulled From Agenda.

- 12. STEPHEN EDWARD TOPPING BRICE, Oyster Planting Ground Application #2015-120**, requests authorization to lease approximately 60 acres within the Rappahannock River in Lancaster County. The application is protested by nearby residents.

Ben Stagg, Director, Shellfish Aquaculture, Leasing and Mapping, gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record. Mr. Stagg provided a handout of a protest e-mail received July 24, 2017.

Mr. Stagg explained that staff reviews each application relative to the specific circumstances associated with the location and other uses of the area. For this application, it appeared leasing of the very nearshore area may conflict with the adjoining highland property owners. Based on those potential conflicts staff recommended approval of a smaller area removing all ground in the current survey east of a line from corner number 10 to corner number 6. This reduced area contains 48.59 acres.

Steve Brice, applicant, was present and his comments are a part of the verbatim record. Mr. Brice stated this area was perfect for oyster aquaculture as this was not heavily residential. He noted he spoke with landowners but no agreement was made. In response to a question, Mr. Brice stated he would use on bottom cages.

Mark Brownell, protestant and resident, was present and his comments are a part of the verbatim record. Mr. Brownell stated that the reason he bought the property was to be on the water and for recreational uses. He felt that the oyster cages would interfere with boating and fishing causing concerns about safety.

George Arnold, protestant and resident, was present and his comments are a part of the verbatim record. Mr. Arnold stated this would be directly across from Urbanna an established recreational area for families and which is very active. He said that 12 inch cages in 3 foot of water would interfere with boating as the boats need at least 5 feet of water depth and it would be a safety concern. He said crab pots were impacting his access now. He requested denial of the application.

Will Tolls, protestant, was present and his comments are a part of the verbatim record. Mr. Tolls said the community was changing from where watermen lived to vacation and retirement homes. He said he was concerned about boater safety. He noted that there were grass beds all over. He said there was not just oysters in the area but crabs also.

Mark Dodson, protestant and Beach Creek resident, was present and his comments are a part of the verbatim record. Mr. Dodson explained that he had been there since 1960 off and on and later in 2009 he retired there. He said the SAV has been there but disappeared, the creek mouth closed up and residents have paid to put in rip rap and to reopen the creek. He said the grasses have been coming back since 2015 and there was

both crabbing and fishing in the area. He said there were others that could not attend this hearing and were concerned with being able to access Beach Creek with their boat.

Taryn Rowland, daughter of applicant, was present and her comments are a part of the verbatim record. Ms. Rowland said that they were flexible with the size of the lease and agreed with the staff recommendation so as to allow access to a pier and not putting cages on the SAV, but this was hard sandy bottom and was close to their land facilities. She stated that they were just getting started and they already had riparian ground on the Middlesex County side.

Commissioner Bull closed the public hearing and stated the matter was before the Commission for discussion and action.

After much discussion, Associate Member Ballard moved to approve a portion of what is surveyed and marking the inshore line of the lease a minimum of 400 feet offshore from corner #4 to corner #10. Associate Member Lusk seconded the motion. The motion carried, 8-0. Chair voted yes.

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13. STEPHEN EDWARD TOPPING BRICE, Oyster Planting Ground Application #2015-139, requests authorization to lease approximately 70 acres within the Rappahannock River in Lancaster County. The application is protested by nearby residents.

Ben Stagg, Director, Shellfish Aquaculture, Leasing and Mapping, gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record.

Mr. Stagg explained that staff reviews each application relative to the specific circumstances associated with the location and other uses of the area. For this application, it appeared leasing of the very nearshore area south of the existing private piers might impact SAV areas and could cause a conflict with the use of the sandy beach and nearshore area for other recreational uses. Based on those potential conflicts, staff recommended approval of a smaller area removing all ground in the current survey east of a line from corner number 9 to corner number 3. This reduced area contains 64.76 acres.

Mark Luckenbach, representing VIMS, explained that now the staff reviews the previous 5 years of Submerged Aquatic Vegetation (SAV) history in an area. When and if the SAV expands, VIMS draws a line around any existing SAV and marks the area off. He said that VIMS was conservative in preserving even the smallest amount of SAV. At the mouth of the Rappahannock the SAV is expanding which was an improvement.

Mr. Stagg explained that staff suggested that this be processed as a permit rather than a

lease. He said with a habitat permit the Commission can put conditions on a permit, when there are navigational issues or other concerns. He said at the mouth of this creek historically there has been more SAV present, but not as much as in other areas.

Taryn Rowland, daughter of applicant, was present and her comments are a part of the verbatim record. Ms. Rowland explained that they wanted their business to grow and also to be good neighbors. She said they would agree about amending the area applied for to allow for access to Beach Creek.

Commissioner Bull asked whether they could agree with the Habitat permit application approach suggested by staff. Ms. Rowland said they were concerned that with a Habitat permit, someone else could apply for a lease in the same area.

Commissioner Bull opened the public hearing.

George Arnold, was present and his comments are a part of the verbatim record. Mr. Arnold stated that boats are in this area frequently.

Commissioner Bull closed the public hearing. He stated the matter was before the Commission for discussion and action.

Associate Member Zydron moved to deny the application and not accept any lease applications for six months allowing staff to work with applicant for a Habitat permit. Associate Member Neill seconded the motion.

Associate Member Ballard made a substitute motion to deny the lease application, noting that the applicant can protest any lease applications that were received. Associate Member Tankard seconded the motion. The motion carried, 8-0. Chair voted yes.

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14. PUBLIC COMMENTS:

Michael Greene:

Anthony Troy, Attorney for Mr. Greene asked the Commission to reconsider its decision, rendered in January of 2016, to revoke all of Mr. Greene's commercial licenses and tidal fishing privileges for a period of two years. He stated this request was being made because of the recent changes to the license revocation laws, adopted by the General Assembly and effective July 1, 2017, which allowed for first time offenders to have only the licenses for the fishery for which the violation occurred revoked.

After much discussion Associate Member Tankard moved to reinstate Mr. Greene's

commercial licenses and fishing privileges, except to continue the revocation of his oyster licenses, starting July 25, 2017, through January 24, 2018. Associate Member France seconded the motion. The motion carried 6-2. Chair voted yes. Associate Members Neill and Zydron both voted no.

Associate Member France suggested that Commissioner Bull be given the authority to consider other cases, if requested, for first time offenders and to make the decision after a review and recommendation by staff, and if no agreement is made, to put the case on the monthly agenda for the Commission's consideration. Commissioner Bull stated that all members agreed.

Michael Gibson:

Mr. Gibson asked the Commission to allow transfer of hand harvest horseshoe crab permits. Commissioner Bull directed Mr. Gibson to talk with Fisheries Management staff and ask them to refer this matter to the appropriate Advisory Committee for review.

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15. OFFENDERS:

Matthew Hull, Policy Manager, gave a briefing of the new sanction guidelines for violations of the natural resources laws. Mr. Hull explained for first time offenders the only gear licenses that can be revoked would be for the fishery in which the violation occurred. He explained that the Commission can take all licenses and fishing privileges, as before the General Assembly Code changes, when there are repeat offenders or habitual offenders. Other things that can be considered by the Board members are uncooperative offenders, probation or revocation, and violations that cause severe harm to the resource or to the public health. He stated that the guidelines had been amended by staff. He handed out copies of the guidelines to the Board members for their review. He said that staff was recommending that the Commission adopt these guidelines, as amended. His comments are a part of the verbatim record.

After some discussion, Associate Member Neill moved to accept the guidelines, as presented. Associate Member Zydron seconded the motion. The motion carried, 7-0. Chair voted yes. Associate Member Ballard had left the meeting prior to this item, for the rest of the day.

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Associate Member France stated he would abstain from voting as he knows the parties involved.

15 (1) **Raymond L. Elbourn** – present and sworn in.

Fred Mitchell, Marine Police Officer, was sworn in and gave the briefing of the information provided in the staff's evaluation. Mr. Mitchell noted that Mr. Elbourn was very cooperative. His comments are a part of the verbatim record.

November 5, 2016, Unlawful Fishing in Commonwealth without First Obtaining Required License (Commercial Crabbing)--§28.2-225 of the Code of Virginia; March 10, 2017, Richmond County General District Court; Fine: \$100.00, Court Cost: \$86.00.

November 5, 2016, Impeding Lawful Fishing (Commercial Crabbing)--§28.2-903.1 of the Code of Virginia; March 10, 2017, Richmond County General District Court; Fine: \$100.00, Court Cost: \$25.00.

William Viberette, attorney for Mr. Elbourn, was present and his comments are a part of the verbatim record. Mr. Viberette explained that Mr. Elbourn had paid all fines and court cost. He said they were requesting that Commission consider this case under the new rules as set by the General Assembly. He said they were seeking mercy and under the matrix guidelines probation can be applied in this case. He said Mr. Elbourn had suffered enough with his conviction by the Court and that the Commission accept the staff recommendation.

Stephanie Iverson, Fisheries Management, Manager Sr., read the Commission's matrix of guidelines for sanctions specify that one conviction of crabbing without a license (with eligibility), within 12 months, should result in at least one-year probation. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to place Mr. Elbourn on probation for a period of one year from the date of this Commission meeting, July 25, 2017, through July 24, 2018. Any failure on Mr. Elbourn's part to obey any of the laws or regulations relating to the Marine Resources of the Commonwealth during the one-year probation would result in Mr. Elbourn appearing before the Commission for a hearing on license revocation.

After some discussion, Associate Member Tankard moved for the one year probation in accordance with the matrix. The motion died for lack of second.

Associate Member Neill moved to place Mr. Elbourn on two year probation, starting July 25, 2017, through July 24, 2019. Associate Member Zydron seconded the motion. The motion carried, 6-0-1. Chair voted yes. Associate Member France abstained.

15(2) **Carlton Duncan** – was not present.

Commissioner Bull asked if Mr. York was aware of why Mr. Duncan was not present. Mr. York stated that Mr. Duncan was homeless and had not appeared in Court and his

case was heard in his absence.

Associate Member Neill suggested the Commission proceed with the hearing in Mr. Duncan's absence. It was agreed to by all Board members.

Steven York, Marine Police Officer, was sworn in and gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

May 13, 2016, Officer Kenneth Davenport; Fish without Saltwater Fishing License—§28.2-302.1 of the Code of Virginia; June 10, 2016, Norfolk General District Court; Fine: \$20.00, Court Cost: \$129.00.

February 18, 2017, Officer Steve York; Possession of Condemned Oysters--§28.2-821 of the Code of Virginia; April 11, 2017, Virginia Beach General District Court; Fine: \$750.00/\$500.00 suspended; Probation 12 months; Court Cost: \$150.00.

February 18, 2017, Officer Robert Griffin; Sell Seafood without a License--§28.2-241 of the Code of Virginia; April 11, 2017, Virginia Beach General District Court; Fine: \$500.00, Court Cost: \$126.00.

Stephanie Iverson, Fisheries Management Manager Sr. read the Commission's guidelines for sanctions specify that one conviction of harvesting oysters from a condemned area, within a 12-month period, should result in at least one-year revocation of the gear license and a five year probation. Because Mr. Duncan does not have a gear license, this violation should result in a five year probation. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to place Mr. Duncan on probation for a period of five years from the date of this Commission meeting, July 25, 2017, through July 24, 2022.

After much discussion about Mr. Duncan not having a Commercial Registered Fisherman License, the harm to public health his harvesting polluted shellfish to be sold, and what action could be taken by the Commission, Associate Member Tankard moved for five year revocation of all licenses, starting July 25, 2017, through July 24, 2022. Associate Member Lusk seconded the motion. The motion carried, 7-0. Chair voted yes.

Associate Member Zydron moved to revoke all fishing privileges in the tidal waters of the Commonwealth for five years, starting July 25, 2017, through July 24, 2022. Associate Member France seconded the motion. The motion carried, 7-0. Chair voted yes.

15(3) **Thomas Laney, III** – was not present.

Warner Rhodes told the Commission that he was told by Mr. Laney that he would not be able to be present at this hearing, as he had no transportation.

Commissioner Bull asked if the Commission wanted to suspend Mr. Laney's licenses until he appears before the Board or to proceed with this hearing in his absence. Associate Member Tankard stated, proceed with the hearing.

William Thompson, Marine Police Officer, was sworn in and gave the briefing of the information in the staff's evaluation. His comments are a part of the verbatim record.

February 17, 2017, Have in Possession Unculled Oysters (7 Quarts)—4 VAC 20-260-40; March 29, 2017, Newport News General District Court; Fine: \$250.00, Court Cost: \$101.00.

Stephanie Iverson, Fisheries Management, Manager Sr. read the guidelines. The Commission's matrix of guidelines for sanctions specify that one conviction of possession of 50% or greater over the tolerance of undersized shellfish, within a 12 month period, should result in at least one year probation. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to place Mr. Laney on probation for a period of one year from the date of this Commission meeting, July 25, 2017, through July 24, 2018. Any failure on Mr. Laney's part to obey any of the laws or regulations relating to the Marine Resources of the Commonwealth during the one year probation would result in Mr. Laney appearing before the Commission for a hearing on license revocation.

Matthew Hull, Policy Manager, noted that there was a typo in the record and the violation was on February 2, 2017. His comments are a part of the verbatim record.

Ms. Iverson noted that Mr. Laney had since transferred his Commercial card so he no longer has any licenses.

Associate Member Tankard moved for putting Mr. Laney on one-year probation, starting July 25, 2017, through July 24, 2018. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.

15 (4) **Richard C. Hayes** – was present and sworn in.

William Thompson, Marine Police Officer, was sworn in and gave the briefing of the information in the staff's evaluation. His comments are a part of the verbatim record.

February 17, 2017, Have in Possession Unculled Oysters (7 Quarts)—4 VAC 20-260-40; March 29, 2017, Newport News General District Court; Fine: \$250.00, Court Cost: \$101.00.

Stephanie Iverson, Fisheries Management, Manager Sr. read the guidelines. The Commission's matrix of guidelines for sanctions specify that one conviction of possession of 50% or greater over the tolerance of undersized shellfish, within a 12 month period, should result in at least one year probation. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to place Mr. Hayes on probation for a period of one year from the date of this Commission meeting, July 25, 2017, through July 24, 2018. Any failure on Mr. Hayes' part to obey any of the laws or regulations relating to the Marine Resources of the Commonwealth during the one year probation would result in Mr. Hayes appearing before the Commission for a hearing on license revocation.

Mr. Hayes explained that he was the Captain of the boat and was just trying to help a friend down on his luck. He said he does the best he can to keep his license and the staff was correct.

Associate Member France moved to place Mr. Hayes on six-month probation, starting July 25, 2017, through January 24, 2018. Associate Member Lusk seconded the motion. The motion carried, 7-0. Chair voted yes.

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16. PUBLIC HEARING: To incorporate emergency amendments as final amendments to Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks." The emergency amendments were adopted by the Commission on June 27, 2017 and established the May 1, 2017 through April 30, 2018 commercial spiny dogfish harvest quota as 4,220,814 pounds and removed the weekly buyer reporting requirement.

Jill Ramsey, Fisheries Management Specialist, gave the briefing of the information provided in the staff's evaluation. Her comments are a part of the verbatim record.

Ms. Ramsey said the Atlantic States Marine Fisheries Commission's Spiny dogfish management board approved a commercial quota of 39,099,717 pounds for the 2017-18 fishing season (May 1, 2017 – April 30, 2018). Virginia received 4,220,814 pounds, which is a 10.8% share of the commercial quota.

Ms. Ramsey explained that Federal dealers are required to report weekly through the federal reporting system (SAFIS). Virginia Marine Resources Commission's (VMRC) requirement for these dealers to report to VMRC weekly is redundant and no longer necessary. However, staff wanted to continue to keep in place the regulation section that

required buyers to call in their purchases, once it was announced that 80% of Virginia's quota had been landed.

Ms. Ramsey stated that staff recommended the adoption of the emergency amendments to Chapter 4VAC 20-490-10, which included the 2017-18 commercial spiny dogfish harvest quota at 4,220,814 pounds and to streamline the buyer reporting process.

Commissioner Bull opened the public hearing for comments. There were no comments and the public hearing was closed. He stated the matter was before the Commission for discussion and action.

Associate Member Neill moved to accept staff recommendations. Associate Member France seconded the motion. The motion carried, 6-0. Chair voted yes. Associate Member Zydron was absent during this item.

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17. PUBLIC HEARING: To incorporate emergency amendments as final amendments to chapters 4 VAC 20-270-10 et seq., "Pertaining to Crabbing"; and, 4 VAC 20-1140-10 et seq., "Prohibition of Crab Dredging in Virginia Waters." The emergency amendments were adopted by the Commission on June 27, 2017 and established: 1) an end of season date of November 30, 2017 and a 2018 season start date of March 17, for the crab pot fishery; 2) reduced bushel limits for November 1 through 15 that are the same as current bushel limits during November 16 through the end of the crab pot season; and, established a prohibition on the crab dredge season during December 1, 2017 through March 31, 2018.

Robert O'Reilly, Chief, Fisheries Management Division, gave the briefing of the information provided in the staff's evaluation, with slides. His comments are a part of the verbatim record.

Mr. O'Reilly explained that staff recommended the Commission incorporate the emergency amendments adopted on June 27, 2017 as parts of the final regulations listed below:

- 1) Chapter 4 VAC 20-270-10 et seq., "Pertaining to Crabbing", the amendments will establish the 2017 ending date of the crab pot season as November 30 and the lawful crab pot season start date of March 17 in 2018. The amendments will modify the start date of the lower bushel limits from November 16 to November 1, 2017.
- 2) Chapter 4 VAC 20-1140-10 et seq., "Prohibition of Crab Dredging in Virginia Waters", the amendments will establish a prohibition of a crab

dredge season during the December 1, 2017 through March 31, 2018 period.

Rom Lipcius, Virginia Institute of Marine Science, was present and his comments are a part of the verbatim record. Dr. Lipcius explained that the dredge survey had shown a concentration of juveniles, half in Virginia and half in Maryland. He said with the survey they miss counting the juveniles in the shallow waters and they were seeking funding from the General Assembly with no success. He stated that in 2012 the high number of juveniles just vanished in the last survey. In response to question, Dr. Lipcius explained that other scientist have checked for what food is eaten by blue catfish and not many juvenile crabs show up in these fish, as they have other food sources.

After further discussion, Commissioner Bull opened the public hearing for comments and there were none. He closed the public hearing and stated the matter was before the Commission for discussion and action.

Associate Member Tankard moved to accept the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.

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- 18. PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden," to increase Virginia's portion of the coast wide total allowable landings of menhaden, in accordance with recent Atlantic States Marine Fisheries Commission actions.

Alex Aspinwall, Fisheries Management Specialist, gave the briefing of the information in the staff's evaluation with slides. His comments are a part of the verbatim record.

Mr. Aspinwall explained that staff recommended the Commission adopt the amendments to Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden," to increase Virginia's portion of the coast-wide total allowable landings of menhaden and to modify the non-purse seine bait sector gear-specific quota allocations. The amendments are as follows:

In accordance with §28.2-400.2 of the Code of Virginia, the total allowable commercial landings for menhaden in 2017 and 2018 in metric tons shall be equivalent to 372,443,990 pounds, and that total amount of allowable landings shall be allocated as quotas among three sectors of the menhaden fishery, as described below, pursuant to §28.2-400.3 of the Code of Virginia. The purse seine menhaden reduction sector is allocated a quota of 335,359,214 pounds of allowable menhaden landings; the purse seine menhaden bait sector a 31,204,766 pound quota of allowable menhaden landings; and, the non-purse seine menhaden bait sector a 5,880,010 pound quota of allowable menhaden landings

Commission Meeting

The non-purse seine commercial bait sector's allocation shall be by gear type as follows:

- | | |
|---------------|------------------|
| 1) Cast net: | 2,261 pounds |
| 2) Dredge: | 3,595 pounds |
| 3) Gill net: | 1,781,986 pounds |
| 4) Fyke net: | 2,477 pounds |
| 5) Pound net: | 3,997,201 pounds |
| 6) Seine: | 23,550 pounds |
| 7) Trawl: | 68,940 pounds |

Commissioner Bull opened the public hearing and there were no comments. He closed the public hearing and stated that the matter was before the Commission for discussion and action.

Associate Member Neill moved to accept the staff recommendations. Associate Member Zydron second the motion. The motion carried, 7-0. Chair voted yes.

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19. PUBLIC HEARING: Proposal to rescind the commercial license fee increase that was scheduled to go into effect in December 2017.

Matt Hull, Policy Manager, gave the briefing of the information in the staff's evaluation. His comments are a part of the verbatim record.

Mr. Hull explained that in 2016 the Commission voted to increase commercial license fees, in accordance with Section 28.2-201.4 of the Code of Virginia, effective December 1, 2017. The 2017 General Assembly acted to suspend any commercial license fee increases, which meant that license fees could not be increased.

Mr. Hull stated that staff recommended the Commission rescind the 2016 amendments to Chapter 4 VAC 20-1090-10 et seq., which would have increased the fees on December 1, 2017.

Commissioner Bull opened the public hearing to comments. There were none and the public hearing was closed. He stated the matter was before the Commission for discussion and action.

Associate Member Neill moved to accept the staff recommendation. Associate Member France seconded the motion. The motion carried, 7-0. The Chair voted yes.

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Commission Meeting

- 20. PUBLIC HEARING:** Proposal to amend Chapters, 4 VAC 20-752-10 et seq., “Pertaining to the Blue Crab Sanctuary, to establish a limited-area open crab fishery along the near-coastal area blue crab sanctuary that is closed to commercial crabbing from May 9 through September 15. In addition, the Commission will decide whether to change the date when the historical sanctuary area is initially closed to commercial crabbing.

Joe Cimino, Deputy Chief, Fisheries Management Division, gave the briefing of the information provided in the staff’s evaluation, with slides. His comments are a part of the verbatim record.

Mr. Cimino explained that staff recommended the Commission amend Chapter 4 VAC 20-752-10 et seq., "Pertaining to the Blue Crab Sanctuary," to establish a limited-area open crab fishery along the near-coastal area blue crab sanctuary that is closed to commercial crabbing from May 9 through September 15. Staff also recommended the Commission amend the date of the Area 2 closure from May 9 to May 16.

Rom Lipcius, Virginia Institute of Marine Science, was present and his comments are a part of the verbatim record. Dr. Lipcius stated that VIMS did not support the Area 2 closure change from May 9 to May 16 and establishing an open crab fishery along the near-coastal area blue crab sanctuary at this time. He explained that with the low count of juveniles now and the expected low count of females to come, no action should be taken until after the crab dredge survey was completed in March 2018.

Commissioner Bull opened the public hearing for comments.

Mark Sanford, crabber, was present and his comments are a part of the verbatim record. Mr. Sanford said they were jammed into a small area in the Lynnhaven River and there would be no difference in harvest pressure to open the ocean front area for them. He said they really needed something to be done.

Commissioner Bull stated the public hearing was closed and the matter was before the Commission for discussion and action.

Associate Member Neill moved to table the matter until March 2018 meeting in order to have current data. Associate Member Zydron seconded the motion. The motion carried, 7-0. Chair voted yes.

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- 21. REQUEST FOR AUGUST PUBLIC HEARING:** Amendments to Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest," to establish the 2017-2018 areas of public harvest, public oyster harvest seasons, and management measures.

Andrew Button, Head, Conservation and Replenishment, gave the briefing of the information provided in the staff's evaluation, with slides. His comments are a part of the verbatim record.

Mr. Button said that staff recommended holding a public hearing to make amendments to Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest," to establish the 2017-2018 areas of public harvest, public oyster harvest seasons, and management measures.

Associate Member Zydron moved to advertise for a public hearing at the August meeting. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.

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There being no further business, the meeting was adjourned at approximately 6:17 p.m. The next Commission meeting will be Tuesday, August 22, 2017.

John M. R. Bull, Commissioner

Katherine Leonard, Recording Secretary