

## MINUTES

## Commission Meeting

March 25, 2014

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
Robert Beck	
James D. Close	
A. J. Erskine	
S. Lynn Haynie	Associate Members
Ken Neill, III	
Whitt G. Sessoms, III	
J. Edmund Tankard	
Paul Kugelman	Assistant Attorney General
Katherine Leonard	Recording Secretary
Jane McCroskey	Chief, Admin-Finance
Linda Farris	Bs. Systems Specialist, MIS
Robert O'Reilly	Chief, Fisheries Mgmt.
Joe Grist	Deputy Chief, Fisheries Mgmt.
Jim Wesson	Head, Conservation/Replenishment
Stephanie Iverson	Fisheries Mgmt. Manager
Alicia Nelson	Fisheries Mgmt. Specialist (RFAB/CFAB Coordinator)
Lewis Gillingham	Director, VSWFT
Samantha Hoover	Fisheries Mgmt. Specialist
Sally Roman	Fisheries Mgmt. Specialist
Adam Kenyon	Biological Collection Prgm. Supvr.
Jason Schaffler	Fisheries Mgmt. Analyst
Laurie Williams	Fisheries Mgmt. Specialist
Rick Lauderman	Chief, Law Enforcement
Warner Rhodes	Deputy Chief, Law Enforcement
Jamie Green	Capt., Middle Area Supervisor
Allen Marshall	Marine Police Officer
Henry Reichle	Marine Police Officer
Richard Haynie	Marine Police Officer
Patrick West	Marine Police Officer

**Commission Meeting**

**17106  
March 25, 2014**

Tony Watkinson	Chief, Habitat Management
Chip Neikirk	Deputy Chief, Habitat Mgmt.
Jeff Madden	Environmental Engineer, Sr.
Jay Woodward	Environmental Engineer, Sr.
Hank Badger	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Justine Woodward	Environmental Engineer, Sr.
Juliette Giordano	Environmental Engineer, Sr.
Randy Owen	Environmental Engineer, Sr.
Ben Stagg	Environmental Engineer, Sr.
Justin Worrell	Environmental Engineer, Sr.
Bradley Reams	Program Support Tech., Sr.

Virginia Institute of Marine Science (VIMS):

Lyle Varnell	Mark Luckenbach
--------------	-----------------

Others present:

Alice Wellford	Hill Wellford	Tim Hayes
Neville Reynolds	Ann Graziano	Margaret Gerds
Bryan Watte	Mitchell Byrd	Jake Taylor Emory
Enos Richardson, Jr.	Forrest Dickinson	Cindy Eckkadafer
Juliana Strock	Sidney Camden	Tom Rubino
William M. Meredith	BettyJo Butler	Mac Garrett
Joanna Bounds	William S. Portlock	John P. Williams
Julia H. Allen	Richard Moncure	J. L. Howeth
Rob Smith	Terrell Bowers	Kennon Morris
Robin Hutt	Harrison Wellford	Charlotte Forèsckara
Sue Wellford	Hylah Boyd	Peter Jamie Bance
Susan Bance	Andy Lacatell	Mildred Minor
Soravely, LTC	Paige Dickinson	R. C. Wellford
Bill Pruitt	Thomas Rubino	Chris Moore
Don Gill	Aaron Applijitts	John White
V. Winn	Ken Lampert	M. Langonski
Carl Saulti	Phil Townsend	Louis Glaser
Joel V.	Hank Norton	Wes Falnestock
T. L. Durvin	Brian Gebhardt	Keith Nuttall
Chris Newsome	Marvin Hardisty	Richard Selph
Martin Cardwell	Robert Gammisch	Alan Miller
Ned Smith	Ed Lawrence	Chriss Lawrence
Dennis Parker	Darrell Insley	Bob Minz
Eric Muza	W. F. Allen	Paul Lwine
Jon Lucy	Doug Purcell	Charles Gregory

**Commission Meeting**

**17107  
March 25, 2014**

William Kansiox	Bruce Graham	W. C. Tice
Daily H. Vanderiff	Peter Bender	Thomas W. Bender, Sr.
Bob Reed	Lewis Brothers	Mike Garley
Steve Harding	Frank Kearney	Rudy Levaserr
Steve Friedman	Ray Wimbrow	Rex Cox
Michael H. Gibson	Chris Ludford	

and others

\* \* \* \* \*

Commissioner Bull called the meeting to order at approximately 9:32 a.m. Commissioner Bull announced that Mr. Plumlee had resigned from the Commission board and was absent. The meeting proceeded with a quorum.

\* \* \* \* \*

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

\* \* \* \* \*

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

There were no changes. Commissioner Bull asked for a motion to approve the agenda.

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

\* \* \* \* \*

**MINUTES:** Commissioner Bull asked if there were any changes or corrections to be made to the February 25, 2014 Commission meeting minutes.

As there were no corrections or changes, Commissioner Bull asked for a motion to approve the minutes. **Associate Member Erskine moved to approve the minutes. Associate Member Haynie seconded the motion. The motion carried, 4-0-4. Chair voted yes. Associate Members Tankard, Beck, Sessoms, and Close all abstained as they were absent for the February meeting.**

\* \* \* \* \*

Commissioner Bull swore in the VMRC staff and VIMS staff that would be speaking or presenting testimony during the 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 one page two item to be heard. He reviewed the item for the Board. His comments are a part of the verbatim record.

Commissioner Bull asked for public comments. There were none. He asked for a motion.

**Associate Member Tankard moved to approve the one page two item, 2A. Associate Member Sessoms seconded the motion. The motion carried, 7-0.**

- 2A. ELIZABETH RIVER CROSSINGS, OPCO LLC, #11-1116**, requests authorization to install three (3) double point bow-stern moorings designed to temporarily moor a maximum of six (6) concrete immersed tube tunnel (ITT) elements within the limits of Anchorage I-1 to the west of the Monitor Merrimac Bridge Tunnel in Hampton Roads, in association with the construction of an additional tunnel for the Mid-town crossing as part of the U.S. Route 58 Downtown Tunnel/Mid-town Tunnel/Martin Luther King Freeway Expansion Project across the Elizabeth River between the cities of Norfolk and Portsmouth. The moorings will be removed once all tunnel elements have been placed.

Permit Fee.....	\$100.00
-----------------	----------

\*\*\*\*\*

- 3. CONSENT AGENDA ITEMS. None**

\*\*\*\*\*

- 4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.**

When asked if a closed meeting was needed, Paul Kugelman, Assistant Attorney General and VMRC Counsel responded no.

\*\*\*\*\*

- 5. **TRI-PORT TERMINALS, INC., #14-0229**, requests authorization to construct approximately 134 linear feet of steel-sheet pile bulkhead in the same alignment as the existing deteriorating bulkhead, and to install a dry hydrant, to include the use of a cofferdam, adjacent to their property at 1324 McCloud Road situated along the Southern Branch of the Elizabeth River in Chesapeake. The project requires a wetlands and a subaqueous permit.

Justine Woodward, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation. Her comments are a part of the verbatim record. Ms. Woodward noted that the City of Chesapeake had rescinded the Wetlands Ordinance and the wetlands public hearing was held by VMRC staff on March 18, 2014 at the VMRC main office in Newport News, Virginia.

Staff believed the bulkhead project was consistent with the current industrial use of the waterway and recommended approval of the project conditioned upon the purchase of 20 square feet of wetlands credits from the Libertyville Mitigation Bank. Staff further recommended a royalty assessment of \$17.50 for the encroachment of the dry hydrant over 4.5 linear feet of State-owned submerged land at rate of \$3.00 per linear foot and for the encroachment of the two (2) pilings associated with the dry hydrant at a rate of \$2.00 per square foot.

**Associate Member Beck moved to approve the project as recommended by staff, conditioned upon the purchase of 20 square feet of wetlands credits from the Libertyville mitigation bank in Chesapeake, and a royalty assessment of \$17.50 for the encroachment of the dry hydrant over 4.5 linear feet of state-owned submerged land at rate of \$3.00 per linear foot and for the encroachment of the two (2) pilings associated with the dry hydrant at a rate of \$2.00 per square foot. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.**

Royalty Fee (filling 4.5 ln. ft. @ \$3.00 per ln. ft.).....	\$13.50
Royalty Fee encroachment for two pilings @ \$2.00/sq. ft.....	\$ 4.00
Permit Fee.....	\$25.00
Total Fees.....	\$42.50

\* \* \* \* \*

- 6. TERRELL W. BOWERS, #13-0656**, requests authorization to construct a 255-foot long by 6-foot wide open-pile community pier with a 552-foot long by 6-foot wide T-head for 46 wet slips at the proposed Rappahannock Cliffs subdivision on the Rappahannock River in Richmond County. The project is protested.

Randy Owen, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation and evaluation addendum. He noted the applicant had submitted drawings revising the pier's length to 255 feet (281 feet total), to reach 3.15 feet of water at mean low water, but maintaining the original request for 46-slips. His comments are a part of the verbatim record.

Mr. Owen indicated staff's recommendation for this project remained as written in the October 22, 2013 evaluation, with the exception that if a T-head should be approved that it be sized to accommodate 12-foot wide boat slips. The October evaluation recommended denial of the project as proposed, finding that the anticipated public and private detriments exceed the anticipated public and private benefits. The evaluation noted that should the Commission find that a community pier is justified, staff would only recommend the construction of a community pier with a T-head positioned to reach the 3 foot depth contour and maximum of 15 slips, equal to the number of lots that could have been platted to mean low water, by right, under the original A-1 zoning and shown on a preliminary plat as waterfront lots. Such authorization would be contingent on the applicant receiving approval from Richmond County, before the Commission permit is issued, since their zoning ordinance requires a variance for any pier proposed greater than 150 feet in length. Furthermore, construction should not be authorized until the sale of the first lot and the use of any slip should be restricted to lot owners in the subdivision.

Staff additionally recommended an instream work time-of-year restriction of February 15 to June 30 to protect anadromous fishes and that any authorization be held in abeyance until the applicant provides documentation that he has coordinated with and received the necessary approvals from the U. S. Fish and Wildlife Service (USFWS) pursuant to the Bald and Golden Eagle Protection Act.

Staff recommended that any approval be contingent on the assessment of a one-time encroachment royalty calculated at \$1.50 per square foot.

After much discussion, Commissioner Bull asked if the applicant was present and wished to comment.

Terrell Bowers, owner/applicant, was sworn in and his comments are a part of the verbatim record. Mr. Bowers said that the application for the 46-slip community pier was submitted one year ago and he had calculated the number of slips using the two x number of waterfront lots rule. He said that when Richmond County rezoned the area there were 22 lots on the waterfront. He noted that there were pilings of a pre-existing pier still in the water. He said that at one point he had applied for a 220-foot private pier in that location

and received a no permit necessary from VMRC. He said when the rezoning was done Richmond County approved his plan but required a community pier. He said he felt that the primary purpose of the protests was because of the subdivision. He said also that the U. S. Fish and Wildlife Service had wanted to buy the land and they actually spoke against the rezoning of the area. He provided a powerpoint presentation and other handouts.

Rob Smith, Zoning Attorney, representing the applicant, was present and his comments are a part of the verbatim record. He said the opposition was not against the pier but the subdivision and the pier was the last thing the protestants could speak against to try to prevent the development of the subdivision. He said there were 22 lots with riparian rights to be assigned to the community pier. He said the Code allowed for wharfing out. He provided handouts.

Jeff Howeth, Engineer, was sworn in and his comments are a part of the verbatim record. Mr. Howeth explained that he designed the project and answered questions.

Kennon Morris with Northern Neck Lumber Company and Robin Hutt with Northern Neck Nursery Co. were sworn and both spoke in support of the project.

Tim Hayes, Attorney for the Welfords, et als., was present and his comments regarding concerns and opposition to the project and support for denying the permit are a part of the verbatim record.

Hills Wellford III, Neville Reynolds, Taylor Emory, Thomas Rubino, Richard Moncure, Peter Vance, John P. Williams, Jr., Joanna Bounds, Ennis Richardson, Forest Dickinson, Bryan Watts, Hila Boyd, and Carter Welford were sworn in and their comments in opposition to the project are a part of the verbatim record.

Mr. Bowers in his rebuttal comments stated that he was requesting approval of the project and noted that the protestants were all opposed to the subdivision originally.

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

After much discussion about denying the project as recommended by staff and offering an alternative structure for approval with conditions and fees, **Associate Member Tankard moved to deny the requested 46-slip community pier and instead granted authorization for a 6-foot wide by 255-foot long open-pile community pier with no slips. The modified approval was contingent on a prohibition of overnight mooring, on the applicant receiving variance approval from Richmond County for the pier's length, and the assessment of a one-time encroachment royalty calculated at \$1.50 per square foot. The permit was additionally conditioned on an in-stream work time-of-year restriction of February 15 to June 30 to protect anadromous fishes and**

a requirement that the applicant provide documentation that he has coordinated with and received the necessary approvals from the U. S. Fish & Wildlife service pursuant to the Bald and Golden Eagle Protection Act. Associate Member Erskine seconded the motion. The motion carried, 8-0. Chair voted yes.

Royalty Fee (encroachment on 1,350 sq. ft. @ \$1.50/sq. ft.....	\$2,025.00
Permit Fee.....	\$ 100.00
Total Fees.....	\$2,125.00

\* \* \* \* \*

7. **REQUEST FOR PUBLIC HEARING:** Arlington Plantation Homeowner’s Association, Inc., requests a permanent extension to the 47.15 acres of oyster planting ground set-aside area at the mouth of Old Plantation Creek. The area was originally set-aside for ten years by the Commission on February 24, 2004, due to submerged aquatic vegetation in the area.

Hank Badger, Chief Engineer, Eastern Shore, Engineering/Surveying, gave the briefing of the information provided in the staff’s evaluation. His comments are a part of the verbatim record.

Staff recommended the Commission hold a public hearing at their April 22, 2014, meeting to address the set-aside request.

Associate Member Tankard moved to advertise for a public hearing. Associate member Beck seconded the motion. The motion carried, 8-0. Chair voted yes.

\* \* \* \* \*

8. **PUBLIC COMMENT.**

Charles Gregory, pound net fisherman, requested the Commission consider allowing him to use a traditional pound net leader after August 1st instead of the previously approved modified leader. He stated the modified leader was preventing him from catching fish. No action was taken.

\* \* \* \* \*

9. **DISCUSSION:** Commission procedures for revocation of licenses under 28.2-528, Unlawful Taking of Oysters.

Paul Kugelman, Assistant Attorney General, discussed procedures for license revocation under §28.2-528 of the Code of Virginia. Mr. Kugelman explained this code section requires license revocation for any person convicted of unlawfully taking oysters or other



mollusks from public grounds, riparian oyster grounds or any generally leased oyster grounds for a minimum of 6 months and a maximum of 2 years from the date of conviction. Mr. Kugelman further explained that the code section did not require notice or hearing and that the individual's due process was provided by the courts. The Commission believed the utilization of this code section would serve to demonstrate the seriousness of these offenses. Commissioner Bull noted that a notice would be delivered by a Marine Police Officer once a decision was made by the Commission.

\* \* \* \* \*

**10. REPEAT OFFENDERS.**

Jamie Green, Captain, Middle Area Supervisor, gave the briefing of the individual cases.

**William F. Allen** – sworn in

Captain Green explained the charges and his comments are a part of the verbatim record.

Staff recommended the Commission revoke all of Mr. Allen's fishing privileges, within the Commonwealth's tidal waters, and revoke all licenses to take or catch fish, shellfish, or marine organisms for a period of one year from the date of the Commission meeting.

Commercially taking oysters between sunset and sunrise – summons 9/30/13-convicted 11/7/13

No shading on vessel – summons 9/30/13; convicted 11/7/13

Mr. Allen explained that he was with Mr. Keeling whose hearing was at the last meeting. He said it was for the same charges. He said he felt that he could not tell the captain of the boat what he can do and he only works with Mr. Keeling occasionally. He noted that Mr. Keeling last month got two years probation.

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

**Associate Members Tankard and Neill both stated they felt that Mr. Allen should get probation the same as Mr. Keeling. Associate Member Tankard moved to place Mr. Allen on two years probation. Associate Member Haynie seconded the motion. The motion carried, 8-0. Chair voted yes.**

**Darrell W. Insley** – sworn in

Captain Green explained the charges and his comments are a part of the verbatim record.

Staff recommended the Commission revoke all of Mr. Insley's fishing privileges, within the Commonwealth's tidal waters, and revoke all licenses to take or catch fish, shellfish or marine organisms for a period of one year from the date of the Commission meeting.

Possession of unculled oysters – summons 2/20/13; convicted 4/10/2013

Commercially taking oysters by dredge between sunset and sunrise – summons 9/4/13; convicted 10/17/13

Possession of unculled oysters – summons 12/2/13; convicted 1/21/14

Mr. Insley explained that he does not cull the oysters, but runs the boat, the two others on board do the culling. He said that he had paid the fines and they had put the oysters back overboard. He said he would lose everything if he lost his licenses and he had been a waterman his whole life; it was all he had ever done.

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

**Associate Member Erskine made a motion to accept the staff recommendation to revoke all of Mr. Insley's fishing privileges, within the Commonwealth's tidal waters, and revoke all licenses to take or catch fish, shellfish or marine organisms for a period of one year from the date of the Commission meeting. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.**

**Hector A. Marin** – not present

Captain Green explained the charges and his comments are a part of the verbatim record.

Staff recommended that the Commission place Mr. Marin on probation for a period of one year. Any failure on his 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. Marin appearing before the Commission on license revocation.

Possession of over the limit of sheepshead (15); summons 10/27/13; convicted 12/17/13

Commissioner Bull stated the matter was before the Commission.

**Associate Member Neill said he felt the recommendation was too lenient. Associate Member Tankard stated that he agreed with Associate Member Neill and moved to revoke all of Mr. Marin's fishing privileges, within the Commonwealth's tidal waters, and revoke all licenses to take or catch fish, shellfish, or marine organisms for a period of one year from the date of the Commission meeting. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.**

**James R. Marshall** – not present

Captain Green explained that Mr. Marshall was not present and they had not been able to find him to serve his notice.

Staff recommended the Commission revoke all of Mr. Marshall's fishing privileges, within the Commonwealth's tidal waters, and revoke all licenses to take or catch fish, shellfish, or marine organisms for a period of two years from the date of the Commission meeting.

Commercially catching oysters without a Commercial Fisherman Registration License after a warning (suspended in September of 2013) – summons 10/7/13; convicted 11/21/13

Commercially tonging oysters without a hand tong license after a warning (suspended in September 2013) – summons 10/7/13; convicted 11/21/13

Commercially catching oysters without a Commercial Fisherman Registration License after a warning – summons 10/21/13; convicted 11/21/13

Commercially tonging oysters without a tong license after a warning – summons 10/21/13; convicted 11/21/13

Possession of unculled oysters from public clean cull rock (12 qts.) – summons 10/21/13; convicted 11/21/13

Paul Kugelman, Assistant Attorney General and VMRC Counsel stated that Mr. Marshall had been given plenty of notice and the Commission could proceed with the hearing. He stated Mr. Marshall was advised of this hearing at the last hearing.

Associate Member Neill asked if this would be an addition to the suspension period. Mr. Kugelman explained that all he could be given was two years.

**Associate Member Tankard moved to accept the staff recommendation revoke all of Mr. Marshall's fishing privileges, within the Commonwealth's tidal waters, and revoke all licenses to take or catch fish, shellfish, or marine organisms for a period of two years from the date of the Commission meeting. Associate Member Erskine seconded the motion. The motion carried, 8-0. Chair voted yes.**

**Eric Muza**- sworn in

Captain Green explained the charges and his comments are a part of the verbatim record.

Staff recommended that the Commission put Mr. Muza on probation for a period of one year. Any failure on his 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. Muza appearing before the Commission for a hearing on license revocation.

Possession of Unculled Oysters – summons 2/19/13; convicted 3/26/13  
Failure to Tag Commercially Harvested Shellfish – summons 2/19/13; convicted 3/26/13  
Possession of unculled oysters from public clean cull rocks (12qts.) – summons 10/21/13;  
convicted 11/21/13

Mr. Muza stated he would not do this again and he does not have boat so he has worked only 7 days in 6 weeks. He stated he was the harvester and was not culling, but he would make sure others do it correctly.

Commissioner Bull stated that the matter was before the Commission.

**Associate Member Beck moved to accept the staff recommendation to place Mr. Muza on probation for a period of one year. Any failure on his 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. Muza appearing before the Commission for a hearing on license revocation. Associate Member Close seconded the motion. The motion carried, 8-0. Chair voted yes.**

**Dennis W. Parker** – sworn in

Captain Green explained the charges and his comments are a part of the verbatim record.

Staff recommended the Commission revoke all of Mr. Parker's fishing privileges, within the Commonwealth's tidal waters, and revoke licenses to take or catch fish, shellfish, or marine organisms for a period of one year from the date of the Commission meeting.

Dredging on private ground without a permit – summons 9/4/13; convicted 10/17/13  
Failure to properly mark private ground and vessel while dredging – summons 9/4/13;  
convicted 10/17/13  
Harvesting oysters by dredge between sunset and sunrise – summons 9/4/13; convicted  
10/17/13  
Possession of unculled oysters – summons 12/2/13; convicted 1/20/14

Mr. Parker said he did not have the license with him and with the bad weather he was not culling and just sitting in the cabin. He was not harvesting before sunrise. He said he was guilty of the unculled oysters. He said he did have his permit but he did not realize the signs were gone. He stated he felt like he was being harassed.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Erskine moved to accept the staff recommendation revoke all of Mr. Parker's fishing privileges, within the Commonwealth's tidal waters, and revoke all licenses to take or catch fish, shellfish, or marine organisms for a period**

**of one year from the date of the Commission meeting. Associate Member Tankard seconded the motion. The motion carried, 8-0. Chair voted yes.**

**Steven W. Purcell** - sworn in

Captain Green explained the charges and his comments are a part of the verbatim record.

Staff recommended the Commission place Mr. Purcell on probation for a period of one year. Any failure on his part to obey any of the laws or regulations relating to Marine Resources of the Commonwealth during the one year probation would result in Mr. Purcell appearing before the Commission for a hearing on license revocation.

Taking seed oysters from James River without a permit – summons 3/29/13; convicted 5/16/13

Taking seed oysters from James River without a permit – summons 4/2/13; convicted 5/16/13

Taking seed oysters from James River without a permit – summons 4/4/13; convicted 5/16/13

Taking seed oysters from James River without a permit – summons 4/8/13; convicted 5/16/13

Mr. Purcell explained that he was always calling the office to make sure he is getting all that he needs. He said he did not do this intentionally, because he did not know he needed this permit.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Tankard moved to accept the staff recommendation to place Mr. Purcell on probation for a period of one year. Any failure on his part to obey any of the laws or regulations relating to Marine Resources of the Commonwealth during the one year probation would result in Mr. Purcell appearing before the Commission for a hearing on license revocation. Associate Member Erskine seconded the motion. The motion carried, 8-0. Chair voted yes.**

\* \* \* \* \*

**11. FAILURE TO REPORT:** Cases involving failure to report commercial harvests, in accordance with Chapter 4VAC20-610-10 et seq., “Pertaining to Commercial Fishing and Mandatory Harvest Reporting.”

Robert O’Reilly, Chief, Fisheries Management, informed the Commission that Mr. John O. White, Jr. who was scheduled to be heard at this meeting was unable to attend because of health issues. He stated that the matter should be continued until the next meeting.

No further action was taken at this time.

\* \* \* \* \*

- 12. **PUBLIC HEARING:** Proposed reaffirming of amendments to Chapter 4VAC20-900-10 et seq. "Pertaining to Horseshoe Crabs" which were adopted on December 10, 2013 and made effective January 1, 2014.

Adam Kenyon, Biological Sampling Program Supervisor, gave the briefing with slides of the information provided in the staff's evaluation reviewing materials from the December 10, 2013 Commission meeting and presented the six recommendations. His comments are a part of the verbatim record.

- 1. Establish the 2014 Virginia horseshoe crab quota as no greater than 172,828 horseshoe crabs;
- 2. Establish a quota category-specific licensing system;
- 3. Establish quota category-specific daily vessel trip limits;
- 4. Establish a dredge gear prohibition in Virginia Blue Crab Sanctuary Area 2 which is the historical (1942) Sanctuary;
- 5. Define possession limits by time-of-day, beginning at 12:00 P.M. of the current day and ending at 11:59 A.M. of the following day; and,
- 6. Establish permit eligibility requirements for individuals who have received a horseshoe crab license or permit transfer from May 1, 2011 through December 10, 2013.

Allan Marshall, Marine Police Officer, was present and his comments are a part of the verbatim record. He spoke in favor of changing the time-of-day regulation for the commercial horseshoe crab hand harvest fishery to make the time and harvest limit restrictions enforceable.

Peter Bender, Edward Bender, and Thomas W. Bowden, Sr. spoke in opposition to the reaffirming of amendments for licensing requirements in Chapter 4VAC20-900-10 et seq. "Pertaining to Horseshoe Crabs" which were adopted on December 10, 2013, and made effective January 1, 2014; and, Charles Wimbrow and Michael Gibson spoke in opposition to the change to the time-of-day for the commercial horseshoe crab hand harvest fishery from noon to noon.

**Associate Member Erskine moved to accept the staff recommendation to reaffirm the amendments made at the December 10, 2013 Commission meeting to Chapter 4VAC 20-900-10 et seq. and to adopt a 12 noon to 12 noon harvest time period for the hand harvest of horseshoe crabs. Associate Member Neill seconded the motion. The motion carried, 6-2. Chair voted yes. Associate Members Haynie and Beck both voted no.**

\* \* \* \* \*

- 13. PUBLIC HEARING:** Proposed reaffirming of amendments to Chapter 4VAC20-490-10 et seq. "Pertaining to Sharks," which were adopted February 25, 2014 and made effective March 1, 2014.

Joe Grist, Deputy Chief, Fisheries Management gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Staff recommended reaffirming amendments to Chapter 4VAC20-490-10 et seq., "Pertaining to Sharks," that modify the shark management group definitions to be consistent with Addendum III of the ASMFC's Interstate Fishery Management Plan for Atlantic Coastal Sharks, establish a recreational size limit of 78 inches for hammerhead sharks and increase the combined commercial possession limit for the aggregated large coastal sharks and hammerhead sharks from 33 to 36 sharks.

There were no public comments. The matter was before the Commission.

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

\* \* \* \* \*

- 14. PUBLIC HEARING:** Proposed adoption of previous emergency amendments to Chapter 4VAC20-280-10., "Pertaining to Red Drum and Speckled Trout", to close the recreational speckled trout fishing season from March 1, 2014 through July 31, 2014, and proposed amendments to lower the recreational possession limit year-round, establish commercial buyer mandatory reporting and establish a by-catch limit for the commercial harvest of speckled trout.

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

Staff recommends adoption of emergency amendments to Chapter 4VAC20-280-10 et seq. "Pertaining to Speckled Trout and Red Drum" to close the recreational fishing season from March 1, 2014 through July 31, 2014. Staff also recommends advertising for a March 25, 2014 public hearing for amendments to Chapter 4VAC20-280-10 et seq. "Pertaining to Speckled Trout and Red Drum" to: 1) establish the emergency recreational fishing season closure, from March 1, 2014 through July 31, 2014 as part of the final regulation; 2) establish a 5-fish per person recreational possession limit, year-round; with a 1 fish over 24 inch allowance to be included within the 5 fish possession limit; and 3) establish mandatory monthly buyer reporting, and a commercial management trigger to enact mandatory weekly buyer reporting and trip limits when the commercial quota is projected to have reached 80% of the total and the buyers purchased speckled trout in that week.

Commissioner Bull opened the public hearing.

Bob Reed, Charter Boat/Recreational Fisherman, spoke in opposition to the closure which was made effective for the recreational fishery but not the commercial fishery. His comments are a part of the verbatim record.

Bruce Graham, fisherman, was present and spoke in opposition to the closure going beyond the July 1<sup>st</sup> date and wanted to keep the limit at 10 fish-14" size limit. No further change should be made until after a stock assessment was done.

Steven Friedman, Recreational Fisherman, spoke against continuing moratorium after July 1st and keeping the 10-fish limit with one 24" for a trophy fish.

Keith Nuttall, Carl Santle, Ken Lambert, Lewis Glazer, Hank Norton, Lewis Brothers, Joseph Cruise, Mike Langaski, Bill Tice and Chris Ludford all spoke in support of the staff recommendations.

As there were no further public comments, Commissioner Bull stated the matter was before the Commission.

**Associate Member Erskine moved to accept the staff recommendation, as written. Associate Member Neill seconded the motion. The motion carried, 6-2. Chair voted yes. Associate Members Haynie and Close both voted no.**

\* \* \* \* \*

- 15. PUBLIC HEARING:** Proposed amendments to Chapter 4VAC20-280-10., "Pertaining to Red Drum and Speckled Trout" to lower the commercial maximum size limit for red drum, from 26 inches to 25 inches, and to increase the commercial possession limit from 3 fish to 5 fish.

Joe Grist, Deputy Chief, Fisheries Management, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Staff recommends adoption of amendments to Chapter 4VAC20-280-10 et seq. "Pertaining to Speckled Trout and Red Drum," to lower the commercial maximum size limit from 26 inches to 25 inches, and increase the commercial possession limit from 3 fish to 5 fish, for red drum.

Commissioner Bull opened the public hearing.

Chris Ludford, commercial fisherman, spoke in support of the staff recommendations. He asked others in the audience with him to stand to show their support. His comments are a part of the verbatim record.



Commissioner Bull stated the matter was before the Commission.

**Associate Member Tankard moved to adopt the staff recommendations. Associate Member Haynie seconded the motion. The motion carried, 8-0. Chair voted yes.**

\* \* \* \* \*

**16. PUBLIC HEARING:** Proposed adoption of previous emergency amendments to Chapter 4VAC20-620-10 et seq., “Pertaining to Summer Flounder” to establish a consecutive 20-day commercial landing period, beginning on the second Wednesday of March.

Robert L. O’Reilly, Chief, Fisheries Management explained that there would be an additional request from industry to be presented by staff for discussion.

Andy Ehlen, Fisheries Management Specialist, gave the briefing of the information provided in the staff’s evaluation. Her comments are a part of the verbatim record.

Staff recommended adoption of previous emergency amendments as part of final Chapter 4VAC620-620-10 et seq. “Pertaining to Summer Flounder” to establish a consecutive 20-day landing period, beginning the second Wednesday of March, for any legally licensed Summer Flounder Endorsement Licensee landing summer flounder, harvested outside of Virginia waters, in Virginia.

Joe Cimino, Fisheries Management Manager Sr., explained that another request had been submitted by Amory Seafood and others to change the trip limit from 12,500 pounds to 5,000 pounds for the period starting April 1, 2014, to compensate for the recent increased harvest effort and spread the harvest equitably. He said staff recommended adopting this as an emergency regulation and to advertise for a public hearing at the next meeting. The letter of request was provided as a handout.

There were no public comments. Commissioner Bull stated the matter was before the Commission.

**Associate Member Tankard moved to accept the staff recommendations. Associate Member Erskine seconded the motion. The motion carried, 8-0. Chair voted yes.**

\* \* \* \* \*

**17. PUBLIC HEARING:** Proposed amendments to Chapter 4VAC20-950-10 et seq., “Pertaining to Black Sea Bass” to establish the 2014 commercial black sea bass quota as 434,000 pounds, and a request for an April public hearing to establish the recreational season and possession limit for black sea bass.

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

Staff recommended establishing the 2014 commercial quota at 434,000 pounds and incorporating the change to the common name of this squid species from "Loligo" to longfin squid for black sea bass, the language used to reference squid.

Staff also recommended advertising for an April 22, 2014 public hearing to establish the 2014 recreational season and possession limit for black sea bass. The possession limit will be 15 fish. The open season will be from May 19 through September 18 and October 18 through December 31.

Commissioner Bull opened the public hearing.

Paul Ewing, was present and spoke in opposition to the reduction of the recreational fishery fish limit.

John Bull stated the matter was before the Commission.

**Associate Member Erskine moved to accept the staff recommendations. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.**

\* \* \* \* \*

**18. PUBLIC HEARING:** Proposed amendments to Chapter 4VAC20-510-10 et seq., "Pertaining to Amberjack and Cobia" to establish daily vessel cobia possession limits for recreational vessels, as well as commercial vessels operated by lawful commercial hook-and-line licensees.

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.

Staff recommended adopting amendments to Chapter 4VAC20-510-10 et seq. "Pertaining to Amberjack and Cobia" to establish a daily commercial possession limit of 6 cobia, for any commercial vessel operated by at least one legal commercial hook-and-line licensee, regardless of the number of crew on that vessel.

Commissioner Bull opened the public hearing.

Chris Ludford, commercial fisherman, spoke in support of the staff recommendations.

Paul Ewing was present and asked how many fish were the CFRL fishermen allowed and staff responded 2 fish.

The public hearing was closed. The matter was before the Commission.

**Associate Member Sessoms moved to accept the staff recommendations. Associate Member Haynie seconded the motion. The motion carried, 7-1. Chair voted yes. Associate Member Neill voted no.**

\* \* \* \* \*

**19. RECOMMENDATIONS:** From the Recreational Fishing Advisory Board on funding projects from the Virginia Saltwater Recreational Fishing Development Fund.

Alicia Nelson, RFAB/CFAB coordinator, gave the briefing of the information provided in the staff's evaluation. Her comments are a part of the verbatim record.

The estimated amount of funds available, for projects, as of March 10, 2014, from the Virginia Saltwater Recreational Fishing Development Fund (VSRFDF), is \$1,484,979 after subtracting agency obligations and the proposed funding of the artificial reef program that is pending at the general assembly. The expenditures recommended by the RFAB to the Commission for funding total \$71,058.30 from the VSRFDF.

Staff supported the project funding recommendations from the RFAB, for expenditures totaling \$71,058.30 from the VSRFDF, and the recommendation to return the unused \$9,987 from the Virginia Coast Watch Program to the VSRFDF.

**The RFAB reviewed the following projects and voted to recommend the Commission fund all projects as presented, with the exception of project F. The board voted to fund project F at a lower amount:**

Multi-Year Projects for 2014 Renewal.

- A) 2014 Knights of Columbus Annual Kids Fishing Day (Year 27<sup>th</sup>). Greg Brown, **\$8,204.30. The RFAB voted for approval with 8 in favor and 0 opposed.**
- B) 2014 Hope House & Oak Grove Nursing Home Fishing Excursions and Clinics. Joseph Stephenson; George Reich, Great Bridge Fisherman's Association. **\$4,425. The RFAB voted for approval with 8 in favor and 0 opposed.**
- C) 2014 Chincoteague Island Charter Boat Association "Take a Kid Fishing Day." Charlie Koski, Chincoteague Island Charter Boat Association **\$2,270. The RFAB voted for approval with 8 in favor and 0 opposed.**
- D) 2014 Youth Developmental "Hooked on Fishing" Adventure (Year 7). Bob Hewlett, Bob Pride, Virginia Charter Boat Association. **\$13,210. The RFAB voted for approval with 8 in favor and 0 opposed.**

- E) 2014 Saxis and Morley's Wharf Fishing Piers Youth Fishing Tournaments (Year 13). Allen Evans, Eastern Shore of Virginia Anglers Club. **\$2,000. The RFAB voted for approval with 8 in favor and 0 opposed.**
- F) 2014 Sunshine Children's Fishing Program (Year 12). Denny Dobbins, Portsmouth Angler Club/Sunshine Program. **\$7,194. The RFAB voted for approval with 8 in favor and 0 opposed.**
- G) 2014 Norfolk Youth Head Boat Fishing Trip (Year 3). Ned Smith, Norfolk Anglers Club. **\$1,115. The RFAB voted for approval with 8 in favor and 0 opposed.**
- H) 2014 Children's Fishing Clinic (Year 17). Rob Cowling, Newport News Rotary Club and Coastal Conservation Association-Peninsula. **\$7,500.**

Due to the potential closure of the James River Fishing Pier, this project, in conjunction with item I, may be held at an alternate location with different number of participants. **The RFAB voted for approval with 8 in favor and 0 opposed.**

- I) 2014 Kiwanis Club Children's Fishing Clinic (Year 13). Wesley Brown, Capital District Kiwanis Club. **\$7,500. The RFAB voted for approval with 8 in favor and 0 opposed.**

New Projects for 2014.

- J) 2014 Virginia Beach Anglers Club/Seton Youth Shelter Children's Fishing Trip. Robert Burstein, Virginia Beach Anglers Club. **\$2,870.**

It was noted that Item J was the highest amount per participant requested of all of the applications (\$71 per child). A motion was made to approve funding item J at the maximum cost per applicant that was previously approved (\$66 dollars per child). **The motion to approve item J in the reduced amount of \$2,640 passed with 4 in favor and 3 opposed.**

The projects recommended by the RFAB for funding total \$56,058.30. The RFAB noted that future event funding will be subject to a recommended cost cap per participant of \$35 to \$40.

The RFAB was asked to recommend that the remaining funds (\$9,987) from the Virginia Coast Watch Program be reverted back to the fund, because the program had been inactive for several years. The RFAB voted unanimously to recommend the Commission return the funds to the VSRFDF and close out the project.

**Commission Meeting**

Staff also asked for a \$15,000 increase in funding for cost code 320 (Saltwater Recreational Staff Personnel), to account for rising costs in insurance, and retirement. The cost code covers personnel, insurance, rent, and advertising costs for RFAB notices, and has not been increased since 2006. It was noted that if any of these funds are not used, they will be returned to the VSRFDF. The RFAB voted unanimously to recommend the Commission increase cost code 320.

Commissioner Bull stated the matter was before the Commission.

**Associate Member Neill moved to approve the recommendations as presented. Associate Member Erskine seconded the motion. The motion carried, 8-0. Chair voted yes.**

\*\*\*\*\*

**20. REQUEST FOR PUBLIC HEARING:** To amend public and private warm-water shellfish management measures established in Chapter 4VAC20-1230-10 et seq., "Pertaining to Restrictions on Shellfish."

Dr. James Wesson, Head, Conservation and Replenishment, gave the briefing of the information provided in the staff recommendation. His comments are a part of the verbatim record.

Staff requested approval to advertise for a public hearing proposed amendments to Chapter 4VAC20-1230-10 et seq., "Pertaining to Restrictions on Shellfish" for the April 22, 2014 Commission meeting.

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

**Associate Member Tankard moved to advertise for a public hearing. Associate Member Erskine seconded the motion. The motion carried, 8-0. Chair voted yes.**

\*\*\*\*\*

There being no further business, the meeting was adjourned at approximately 7:30 p.m. The next regular Commission meeting will be Tuesday, April 22, 2014.

**Commission Meeting**

**17126  
March 25, 2014**

\* \* \* \* \*

---

John M. R. Bull, Commissioner

---

Katherine Leonard, Recording Secretary