

## MINUTES

## Commission Meeting

April 24, 2012

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:

Jack G. Travelstead	Acting Commissioner
William Laine, Jr. J. Bryan Plumlee J. Carter Fox Joseph C. Palmer, Jr. Kyle J. Schick J. Edward Tankard, III	Associate Members
Paul Kugelman, Jr.	Assistant Attorney General
John Bull	Director, Public Relations
Linda Farris	Bs. Systems Specialist, MIS
Rob O'Reilly Joe Grist Jim Wesson Joe Cimino Stephanie Iverson Allison Watts Adam Kenyon Renee Hoover Sonya Davis Lewis Gillingham	Acting Chief, Fisheries Mgmt. Acting Deputy Chief, Fisheries Head, Conservation-Replenishment Biological Sampling Program Mgr. Fisheries Mgmt. Manager Fisheries Mgmt. Specialist Fisheries Mgmt. Specialist Fisheries Mgmt. Specialist Fisheries Mgmt. Specialist, Sr. Head, SW Fishing Tournament
Warner Rhodes James Vanlandingham Jeffrey Vanlandingham	Deputy Chief, Law Enforcement Marine Police Officer Marine Police Officer

**Commission Meeting**

**16705  
April 24, 2012**

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

Virginia Institute of Marine Science (VIMS):

Lyle Varnell

Virginia Department of Health-Division of Shellfish Sanitation (VDH-DSS)

Dr. Robert Croonenberghs

Others present:

Mike Hixonbough	Jeff Haynes	Josee Hionis
Dimitri Hionis	Keith Lockwood	Kristen Doncfrio
Chris Ludford	Chris Moore	

And others.

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Acting Commissioner Travelstead called the meeting to order at approximately 9:35 a.m. Associate Members Robins and Sessoms were absent.

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At the request of Acting Commissioner Travelstead, Associate Member Schick gave the invocation and Tony Watkinson, Chief, Habitat Management led the pledge of allegiance.

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

Tony Watkinson, Chief, Habitat Management, explained that for Item 7, Sebastian Plucinski, #11-1384, a deferral was requested by staff for the May 2012 Commission meeting.

Acting Commissioner Travelstead asked for a motion for approval of the agenda, as amended, by the Board.

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

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**MINUTES:** Acting Commissioner Travelstead requested a motion for approval of the March 27, 2012 Commission meeting minutes, if there were no corrections or changes.

Associate Member Fox explained that he was absent from the last meeting and he had been indicated as the one to second the approval of the amended agenda for last month's meeting. He noted this correction to be made was on page 3 of the draft minutes.

When Acting Commissioner Travelstead asked if anyone remembered seconding this motion, Associate Member Schick stated that he had seconded the motion for the approval of last month's agenda.

Acting Commissioner Travelstead asked for a motion to approve the minutes, as amended.

**Associate Member Plumlee moved to approve the minutes, as amended. Associate Member Palmer seconded the motion. The motion carried, 5-0-1. Associate Member Fox abstained as he was absent from last month's 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, informed the Commission that there were no page two items to be heard.

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Acting Commissioner Travelstead, at this time, swore in the VMRC staff and VIMS staff that would be speaking or presenting testimony during the meeting.

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3. **CONSENT ITEMS:** (After-the-fact permit applications with monetary civil charges and triple permit fees that have been agreed upon by both staff and the applicant and need final approval from the Commission).
  
- 3A. **AQUIA BAY MARINA, INC., #12-0007**, requests after-the-fact authorization to retain a screened and partial knee walled enclosure under a previously authorized (#09-0093) roof structure measuring, 14 feet 10 inches by 11 feet 6 inches and 7 feet 3 inches tall, attached to a previously existing enclosed covered structure and an adjacent 8 feet 10 inches long by 3 feet 10 inches high wall on an existing pier at the existing marina facility along Aquia Creek in Stafford County. The applicant has agreed to pay a civil charge in the amount of \$1,000.00 in lieu of further enforcement action. Staff recommends approval and acceptance of the aforementioned civil charge.

Tony Watkinson, Chief, Habitat Management reviewed the information provided in staff's briefing. His comments are a part of the verbatim record.

In 2009, VMRC granted a permit (#09-0093) to the marina which authorized a roof extension off an existing covered structure over an existing dock. In August of 2011, staff conducted a compliance inspection and discovered the roof extension was partially enclosed and a free-standing wall had been built without a permit from VMRC. Another inspection was conducted on October 5, 2011, and a Notice to Comply was issued to the marina owner, Mr. Jim Wordsworth. The notice directed removal of the unauthorized construction or submittal of an after-the-fact application to retain the structure within 60 days. We received an application to retain the structure on January 4, 2012.

In a letter from Mr. Wordsworth's attorney, Mr. H. Clark Leming, dated February 14, 2012, he explains that the marina manager, Mr. Paxton, met with County officials and was told that a permit would not be required for the screening and knee wall. The construction was reportedly completed in July 2011 by marina staff. The stated need for the construction was to address health and safety concerns; specifically to keep insects out and to keep birds from nesting underneath the roofed area, and to prevent guests from falling off the dock.

As evidenced by the earlier permit (#09-0093) to extend the roof, staff had previously determined that extension of the roof of the existing structure at this public marina facility was justified. With the absence of any public objection or agency concerns, we believe the addition of the knee wall and screen will only minimally add to the visual obstruction and appears warranted at the facility. While other permits have been administratively issued for screens under covered roof structures on private piers, staff would not routinely support knee walls. However, in this case, since this is a public-use marina with numerous patrons using the pier, we agree the wall provides some measure of security that would not appear necessary for a private pier, and serves to separate the use of the pier area from the adjacent boat slip.

Staff believes both the degree of environmental impact and degree of non-compliance associated with the unauthorized work are minor. Accordingly, staff recommends the Commission approve the application based on the applicant’s agreement to pay a civil charge in the amount of \$1,000.00 in lieu of further enforcement action.

Acting Commissioner Travelstead asked for questions. There were none. He asked for comments from the applicant. There were none. He asked for action by the Board.

**Associate Member Plumlee moved to approve the staff’s recommendation. Associate Member Schick seconded the motion. The motion carried, 6-0.**

Civil Charge.....	\$1,000.00
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- 4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.** There was no closed meeting.

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- 5. JEFFREY H. HAYNES and ROBIN L. FOSTER, #11-1863,** request authorization to construct 74 linear feet of riprap marsh toe stabilization, which will extend a maximum of four (4) feet channelward of mean low water at their property on Little Bay at 3633 Windmill Point Road in Lancaster County. The project is protested by an adjacent property owner.

Jay Woodward, Environmental Engineer, Sr., gave the presentation with slides and reviewed the information provided in staff’s briefing. He noted that Mr. Haynes was present. His comments are a part of the verbatim record.

Mr. Woodward explained that the subject property is located on Little Bay, a relatively shallow, broad water body approximately one mile south of the confluence of Fleets Bay and the Chesapeake Bay, just north of Windmill Point in Lancaster County. The shoreline has a northern exposure with a fetch of nearly five miles to Bluff Point due north, and a much greater fetch to the northeast. Unlike the majority of properties in the area, the applicants’ shoreline has not been armored or otherwise treated for erosion control. The Haynes shoreline is a non-vegetated beach which gently slopes up from mean low water to the yard, where there is a small one to two-foot scarp separating the beach from the upland. However, there is a small pile of rubble on the eastern property line which has acted like a groin to trap sand. According to the adjoining property owner to the east, Mrs. Fleur-Elaine Wilson, the rubble pile has been there since the 1970s. The Wilsons received authorization for 226 linear feet of riprap revetment, a stone spur and

three (3) timber groins in 1997 (VMRC #97-1191), but installed only the revetment. The Wilson revetment ties into a 110-foot long revetment on the adjoining property further to the east belonging to Mrs. Betty Piland.

Mr. Woodward said that Mrs. Wilson is opposed to the marsh toe stabilization structure. She believes that the project will change her property and that of the neighbor to the east. She feels the project is huge and will cause the bay waters to cut into her beach shoreline even worse than the existing rubble pile has done over the last 40 years. She feels the size of the stone structure at 0.5 to 0.75 tons per foot “will be a monster” and will mostly be on her beach, and at 38 feet long, could be considered a groin. Mrs. Wilson feels the stone will be fastened into her riprap and indicates that the neighbor’s beach to her right (east) is almost non-existent now with the Bay almost at their back door. Staff contacted Mrs. Wilson who resides in Florida in an attempt to clarify the details of the project and discuss her concerns, but she remains opposed to the project as proposed.

Mr. Woodward noted that the Lancaster County Wetlands Board approved the project, as proposed, at their February 9, 2012 public hearing at which time Mrs. Wilson’s letter was read into the record and considered.

Mr. Woodward stated that the U. S. Army Corps of Engineers had issued a Nationwide Permit #13 for the project on February 16, 2012. The Virginia Department of Conservation and Recreation documents the presence of natural heritage resources in the project area, but due to the scope of the activity and the distance to the resources, do not anticipate any adverse impacts. No other State agencies have commented.

Mr. Woodward said that staff believes that the proposed design is in accordance with accepted living shoreline designs that strive to protect private property from detrimental erosion while preserving and protecting the natural functions of intertidal wetland and beach area. The proposed sill will be no higher than one-half (0.5) foot above the elevation of mean high water, allowing for tidal inundation at most normal high tides and all extreme tides. The three to four-foot base width of the structure is the minimum necessary for stability of the three-foot tall structure, 1.5 feet of which will be buried in the sandy substrate as a “toe,” per standard design criteria. In addition, all of the previously dumped rubble and debris (bricks, broken concrete, cindered blocks) is to be removed from the vegetated wetland fringe, beach and sub-tidal bottom area and only clean, granite quarry stone will be used to construct the sill. The size of the stone is appropriate given the fetch and exposure along this section of shoreline.

Mr. Woodward stated that with reference to the history of the site, if the rubble mound has indeed been there for 40 years, as stated by Mrs. Wilson, it appears to staff that the “structure” may have helped to hold the beach, rather than causing additional shoreline erosion. Once the Wilsons installed their revetment in 1997, it is probable that any sand along their shoreline became locked up and unavailable for maintaining their beach. Had they constructed the spur and groins as proposed, some of the sand in the area may have

become trapped along their shoreline, perhaps helping to maintain a narrow beach along their shoreline. Mrs. Wilson would still have that option, through submittal of a new permit application, should she wish to pursue that in the future.

Mr. Woodward explained that after reviewing the project application, current site conditions, history of the site, all comments in the record, and after considering all of the factors in §28.2-1205 of the Code of Virginia, staff recommends approval of the project as proposed. Any damage to existing wetland vegetation occurring during construction should be restored and replanted as may be necessary. While it is not indicated in the application, there is about a truck load of suitable sand that has been brought into the site and placed on the adjacent upland. If this material is intended to be placed along the beach, above the mean low water mark, staff would note that such beach nourishment activity is specifically authorized under the Coastal Primary Sand Dunes and Beaches Ordinance.

Acting Commissioner Travelstead asked for questions. There were none. He asked if the applicant wished to comment.

Jeffrey Haynes, applicant was sworn in and his comments are a part of the verbatim record. Mr. Haynes stated he had been the property owner along with his wife for eight years. He explained that the beach was completely natural. He stated the beach was great to leave it as it was and with the project he would clean up the rubble in order to continue it the way it was as a simple project with minimal design. He said the sand and rock had been put in by the contractor and it was a surprise to him when he saw it.

Acting Commissioner Travelstead asked if anyone else wish to comment in support or in opposition to the project. There were none. He stated the matter was before the Commission.

**Associate Member Laine moved to approve the staff recommendation. Associate Member Schick seconded the motion. He asked VIMS staff to confirm they had no concerns with the project. Lyle Varnell, representative for VIMS responded, and they did not. The motion carried, 5-0.**

Permit Fee.....	\$25.00
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- BUBBA’S MARINA, #01-1979/#11-0583.** Josee Hionis requests after-the-fact authorization to retain the glass door enclosures installed around the channelward portion of the commercial wharf facility known as Bubba’s Shellfish Market at 3323 Shore Drive, situated along the Lynnhaven Inlet in Virginia Beach. Mrs. Hionis also seeks approval to continue operating a restaurant facility within the enclosed decking area currently existing over State-owned submerged

bottomlands. At the October 25, 2011, hearing, the Commission granted an interim six-month permit to retain the glass doors and to continue restaurant operations at the establishment.

Both Associate Members Plumlee and Palmer recused themselves and left the meeting because of concerns with business conflicts. Acting Commissioner Travelstead stated that there were five present which made a quorum.

Justin Worrell, Environmental Engineer, Sr., gave the presentation with slides and reviewed the information provided in staff's briefing. His comments are a part of the verbatim record.

Mr. Worrell explained that the Commission's interim six-month permit allowing the retention of the glass door enclosures and the continued use of the facility as a restaurant expires on May 1, 2012. That interim permit was granted at the end of a previous six-month stay from the Commission's March 2011 decision. The applicants, Bubba's Marina, in care of Josee Hionis, followed the Commission's previous instructions regarding filing an after-the-fact application. That application was processed by staff, and no objections were received. The application request was also approved by the Virginia Department of Health – Division of Shellfish Sanitation, Virginia Department of Health – Wastewater Engineering, and the local Virginia Beach Department of Public Health. The Department of Environmental Quality and the U.S. Army Corps of Engineers determined that no further permits would be necessary.

Mr. Worrell said that the Commission's willingness to grant an interim six-month permit was due in part to Deputy City Manager Dave Hansen's correspondence, dated October 21, 2011, in which he stated that he expected all final local approvals for the proposed restaurant "within the next 120 days." Mrs. Hionis recently provided staff with a copy of their Commercial Certificate of Use and Occupancy, issued by the City of Virginia Beach on April 10, 2012. Deputy City Manager Hansen also assured staff by telephone on April 16, 2012, that the Shellfish Market had obtained all local approvals necessary to continue operations as a restaurant. Finally, in correspondence dated April 18, 2012, Deputy City Manager Hansen specifically documented all of the final City approvals granted for Bubba's Shellfish Market.

Mr. Worrell stated that in the case of commercial application requests out over State-owned submerged bottomlands, typical protocol for Habitat Management staff is to wait until all local approvals are granted before issuing or recommending permit issuance. Now, that all local approvals have been granted for the after-the-fact request, including the use of the commercial facility as a restaurant and the installation of the glass-door enclosures, staff feels that the Commission can ultimately grant an after-the-fact permit.

Mr. Worrell explained that staff recommends such an approval to include a triple permit fee of \$300.00, an appropriate civil charge based on minor environmental impact and



major permit deviation, and a royalty payment of \$5,654.00 for the facility's encroachment over 2,827 square feet of State-owned submerged bottomland at a rate of \$2.00 per square-foot. In accordance with §28.2-1206(D) of the Code of Virginia, the Commission may also want to consider tripling the royalty amount given the after-the-fact nature of the request and the non-compliance with the original permit conditions.

Acting Commissioner Travelstead asked for questions.

Associate Member Laine asked staff to explain how the violation was discovered and the circumstances of the violation. Mr. Worrell explained that when staff received an application in 2010 they made a site visit and found the glass enclosure. He said he spoke with the parties and discovered the use of the enclosure and information about the use of the facility.

Acting Commissioner Travelstead asked if the applicants wished to comment.

Josee Hionis, Co- Applicant was sworn in and her comments are a part of the verbatim record. Mrs. Hionis asked staff how they came up with the 2,827 square feet.

Mr. Worrell explained that this was the square footage provided by Tom Langley in 2004 for the full tending dock and bulkhead. He stated that staff and Mr. Langley discussed the square footage and when the inspection was conducted, the square footage did match. He said that staff did not see a change in the footprint.

Ms. Hionis stated that they did not agree with the square footage as it should include only the deck area and restaurant. She said they estimated the square footage to be 1,300 to 1,400 square feet.

Dimitri Hionis, Co-Applicant was sworn in and his comments are a part of the verbatim record. Mr. Hionis explained that they went to the City to get all licenses. He said that if they had been told then to go to VMRC they would have done it. He stated they could have just put up the glass doors.

Acting Commissioner Travelstead asked if there were other comments in support or opposition to the project. He stated the matter was before the Commission.

Associate Member Fox asked if staff had reconciled the square footage. Mr. Worrell said the state submerged bottom was from the bulkhead out to the channel including the decking. He stated it was not just the decking, but the seafood area and decking. He reiterated that one half the facility was over state-owned bottom and was all calculated. Associate Member Schick said that changing the use caused there to be royalties. Mr. Worrell said the 2004 approval did not include royalties since it was a seafood facility and now the entire facility use had been a change.

Associate Member Fox asked if there were no royalties charged for the earlier project. Mr. Worrell responded there were not.

Associate Member Tankard asked if it was still being used as a seafood facility, but now that it was a restaurant had the need for a royalty changed. Mr. Worrell said it was still for seafood offloading, but there was additional use.

He asked the applicant if he had any rebuttal comments.

Mr. Hionis stated this was exactly what was applied for except for the back decking. He said that staff came and checked it and exempted the fine. He said there was additional use now because there was no more fishing in the area except for maybe three boats. He said they need the business to survive and the structure was all 99% original loading facility. He said he did not know if it was his fault or the City's for him not being told to come to VMRC first.

Acting Commissioner Travelstead stated the matter was before the Commission.

Associate Member Laine said he was troubled by the application. He said as a commercial dock for loading seafood it was considered water dependent and a benefit to the watermen. He said the use changed to a restaurant as well as a seafood offload site. He said he believed if it were to be approved it would set a precedent and other applicants would come to the Commission to change their facility to a non-water dependent use. He said the Commission would be stuck from denying others.

Acting Commissioner Travelstead asked for questions.

Associate Member Fox said he was troubled with an after-the-fact issue and opposed to anyone taking action without a permit. He said he sympathized with them since they went to Virginia Beach and were not told to come to VMRC and he understood the situation of the applicants. He said if it was approved a civil charge should be assessed, not the triple and encroachment fees. He said there needed to be something charged based on a minor environmental impact and major permit deviation.

Acting Commissioner Travelstead stated that there was the matrix table and the new fees would be \$3,000.00.

**Associate Member Tankard said he understood what Associate Member Laine was saying, but in today's economy there can be mixed use for fisheries and a restaurant so there was offload and consumption of the seafood. He moved to approve the staff recommendation to include the civil charge for a minor environmental impact and major permit deviation and royalty fees based on the 2,827 square feet. Acting Commissioner Travelstead asked if that included the triple permit fees. Associate Member Tankard stated yes and he noted that in Virginia Beach real estate was**

expensive and more costly than State-owned bottom. Associate Member Schick stated he seconded the motion. He further stated that he was discouraged with these after-the-fact permits the Commission has to deal with. He said mixed use in this economy was more prominent and he knew there were others who would want to do the same thing. He said the Commission needed to walk a fine line. Associate Member Fox said he supported the motion and that staff had done a good job with the slide show and it was a good looking facility. The motion carried, 4-1. The Chair voted yes and Associate Member Laine voted no. Associate Members Palmer and Plumlee had both recused themselves from participating in this hearing.

Royalties (encroachment 2,827 sq. ft. @ \$2.00/sq. ft.).....	\$5,654.00
Civil Charge.....	\$3,000.00
Permit Fee (ATF Triple).....	\$ 100.00
Total Fees.....	\$8,954.00

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- 7. **SEBASTIAN PLUCINSKI, #11-1384**, requests after-the-fact authorization to retain seven (7) galvanized metal fence posts with concrete bases and to install eight (8) fence lines consisting of 2-inch diameter galvanized fence posts with interconnecting chain extending landward of mean high water to a pond located behind the natural dune system, and install eight (8) pilings at the mean low water line at the terminus of the property lines of four separate parcels along the Chesapeake Bay on White Marsh Beach in the City of Hampton.

Pulled from the Agenda – deferred until the May 2012 meeting

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- 8. **U.S ARMY CORPS OF ENGINEERS, #12-0255**, requests authorization to place overboard, in an unconfined manner, up to 65,000 cubic yards of dredged material, per dredge cycle, from the hydraulic maintenance dredging of the two Federal Project Channels near Tangier Island in Accomack County. The material will be deposited along the western shore of the island, south of the existing seawall or along the northwest shoreline of the Tangier Island Uppards. Subaqueous, Wetlands and Coastal Primary Sand Dunes/Beach permits will be required.

Associate Members Palmer and Plumlee returned to the meeting.

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

Mr. Badger explained that the two Federal Project Channels provide navigable access to the Town of Tangier and require maintenance dredging approximately every two to three years. The channel is now in the process of being dredged under their existing VMRC permit (#04-1327), which will expire prior to the next dredging cycle.

Mr. Badger said that the existing placement site has been used since the 1990's and has provided a sacrificial buffer along the eroding western shoreline south of the airport and stone seawall. The proposed alternate placement site on the northwestern shoreline of the Uppards will use the dredged material to construct a sacrificial berm to reduce the erosion impacts on the shoreline, as well as filling in breaches in the marsh/beach that have been created by storm events in recent years.

Mr. Badger stated that the Corps desires to place approximately 65,000 cubic yards of dredged material, comprised of 70% to 95% sand, along the beach and near shore area south of the airport seawall or along the beach and in the breaches in the marsh and near shore area on the northwestern side of the Uppards. The elevation of the beach nourishment area will be raised no higher than four feet above mean low water or the face of the dune south of the seawall and no higher than three feet at the alternate placement site along the Uppards.

Mr. Badger noted that Submerged Aquatic Vegetation (SAV) is primarily concentrated on the eastern shores of Tangier Island, along Tangier Sound and not in the vicinity of the placement sites. There are no public or private oyster or clam ground leases on the western side of the island.

Mr. Badger said that while the actual dredging of the federal project channel is authorized by §28.2-1203 (a) (3) of the Code of Virginia, the placement of the dredged material overboard in the proposed sites is not exempt and therefore requires a permit. A permit for this project was last issued by the Commission in 2004 and will expire on July 27, 2014. That permit did not include the alternate placement site along the Uppards.

Mr. Badger informed the Board that the County of Accomack has not yet adopted the model Coastal Primary Sand Dune and Beach ordinance. As a result, the Commission is responsible for administering the provisions of the ordinance within that locality. Also, since the wetlands involved in the project are State-owned, the Commission, rather than the Accomack County Wetlands Board, must issue a permit for their use pursuant to Section §28.2-1306 of the Code of Virginia.

Mr. Badger stated that the Virginia Institute of Marine Science (VIMS) has indicated that the placement of sandy dredged material at the existing disposal site has proven to be an effective erosion protection method for this shoreline for the past 30 years. The continued use of this site is appropriate if the dredged material has a suitable grain size distribution for beach placement. At the Uppards, VIMS states that a recent ecosystem restoration study determined that a stabilization project at this location is justified to reduce erosion

of fine grained sediments from the tidal marshes and to reduce the wave energy reaching interior marshes and SAV beds. If no action is taken and the breach at Toms Gut maintains itself, then accelerated defragmentation of the interior marshes is expected similar to the disintegration of the marsh islands to the north in Maryland. One prediction is that the entire Uppards Island will be gone by 2100 due to erosion, sea level change, and subsidence (Mills et al 2003). VIMS indicates that while it is difficult to predict what long term effects the proposed sacrificial beach creation will have on the erosion trend of the Uppards northwestern shoreline, the periodic introduction of sandy dredged material to this part of the Tangier Island ecosystem is not expected to have significant adverse environmental impacts. VIMS also recommends continuing the time of year restriction for the placement of dredged material at either site to between October 1 - April 30, due to the potential for adverse impacts on water quality and living resources. Juvenile fish species, sea turtles, and blue crabs are less abundant in adjacent waters and wetland habitats during that time of year. Also, marsh productivity will not be interrupted as much compared to beach berm construction during the growing season. Reduced water clarity during late summer high temperature periods is particularly stressful for SAV. Finally, VIMS recommends consulting with NOAA Fisheries and US Fish and Wildlife concerning Northeastern beach tiger beetle habitat.

Mr. Badger explained that the Department of Conservation and Recreation (DCR) states that the current activity will not affect any documented State listed plants or insects.

Mr. Badger noted that no public comments in opposition have been received to date. No other State agencies have expressed any opposition to the project.

Mr. Badger said that some projections suggest that the Uppards will erode away by the year 2100 unless some remedial action is taken. Once that island has eroded, the Town of Tangier will be directly exposed to waves generated by winds blowing from northerly directions.

Mr. Badger explained that while staff believes the filling in of the breach will not stop the Uppards from eroding away, leaving the breach alone will allow continued erosion and expose the small bay east of the western shoreline to increased erosion. Staff agrees with VIMS that the placement sites are appropriate provided the dredged material is suitable for beach placement. A site visit on April 3, 2012, at the time the Federal channel was being dredged. suggests the material is suitable for beach placement. Staff also agrees that a time of year restriction for the placement of dredged material should be required due to the potential for adverse impacts to blue crabs, SAV and marsh productivity during the growing season. The same restriction is on the existing permit. VIMS also recommended consulting with NOAA Fisheries and US Fish and Wildlife concerning Northeastern beach tiger beetle habitat. Staff believes the Corps is in consultation with NOAA and US Fish and Wildlife concerning any tiger beetle habitat. As stated above DCR states that the current activity will not affect any documented State listed plants or insects.

Mr. Badger stated that after evaluating the merits of the project and after considering all of the factors contained in §28.2-1205 (A), §28.2-1302 (10) (B) and §28.2-1403 (10) (B) and of the Code of Virginia, staff recommends approval of the project as submitted with the following conditions:

1. The overboard placement of the dredged material be confined to the period of October 1 through April 30 in order to minimize the adverse effects to blue crabs, SAV and marsh productivity during the growing season that may be present in or near the project area;
2. Applicant shall be required to submit post placement bathymetric and cross sectional surveys of the placement sites used within 90 days of completion of the placement of the dredged material.

Acting Commissioner Travelstead stated it was a wide band of sand. Mr. Badger said the berm was 100 feet wide with a 20:1 slope, at minus five feet sea level and 200-250 feet long. Acting Commissioner Travelstead asked how long it would last. Mr. Badger stated it was unknown, but it was a temporary fix unless additional funding was received.

Associate Member Tankard asked if the blue on the map indicated the bay or an interior pond. Mr. Badger indicated on the map slide where the bay was located and said that there was water flow from the Bay on the east and west side of it.

Acting Commissioner Travelstead asked about the direction of the water flow. Mr. Badger stated the breach allowed it to come from two ways.

Associate Member Plumlee asked if there was only one replacement site. Mr. Badger stated no, it was both of them. Associate Member Plumlee asked about the permit expiration date. Mr. Badger said it was issue for five years with an option for another five years.

Associate Member Fox asked if any SAV would be covered by sand. Mr. Badger stated no, the SAV was on the backside.

Associate Member Tankard asked about a time of year restriction being excessive when you consider the west side of the Island and no SAV and with sand on sand it meant no more species at all. Mr. Badger said the ACOE had agreed to the time of year restriction in this area. He said that since the 90's watermen have put crab pots and crab sheds in the area, which the sand impacts.

Associate Member Plumlee asked about VIMS comments regarding two other studies and the staff's briefing did not address these as being included. Mr. Badger stated it was last done in 2005 and there was nothing new. It would just be added expense. Associate

Member Plumlee asked if there could be an annual monitoring done. Mr. Badger stated he could be required 90-days after the project and again in two years.

Acting Commissioner Travelstead asked if the applicant wished to comment. He asked if anyone in opposition wished to comment. There were no more comments. He stated the matter was before the Commission.

**Associate Member Palmer stated that he had spoken with Dan Dise, who was in favor of the project. He moved to accept the project, as proposed. Associate Member Fox seconded the motion. Associate Member Plumlee asked if there were comments by the watermen in regards to the time-of-year. Associate Member Palmer stated he did not ask. Associate Member Plumlee asked if this would restrict the season. Acting Commissioner Travelstead stated it was a condition of the previous permit and he assumed it was the same. Associate Member Tankard stated he supported the motion. The motion carried, 7-0. The Chair voted yes.**

Permit Fee.....	\$100.00
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**9. PUBLIC COMMENTS:** No public comments.

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**13. REQUEST FOR PUBLIC HEARING:** Establishment of the spiny dogfish commercial harvest quota for the upcoming fishing season, May 1 through April 30.

Joe Grist, Acting Deputy Chief, Fisheries Management, gave the presentation. His comments are a part of the verbatim record.

Mr. Grist explained that the Atlantic State Marine Fisheries Commission (ASMFC) Spiny Dogfish and Coastal Sharks Management Board approved a 30 million pound commercial quota for the May 1, 2012 through April 30, 2013 fishing season. The southern region states, New York through North Carolina, are allocated 42% of the seasonal quota. Virginia is allocated 10.795%, or 3,238,500 pounds of the seasonal quota.

Mr. Grist said that even if the NMFS sets a higher quota, Virginia's spiny dogfish commercial landing quota is required to comply with the ASMFC's fishery management plan for spiny dogfish. In discussions with ASMFC's coordinating staff, there was no official plan to re-visit the issue of different coastal quota allocations at the ASMFC's Spiny Dogfish and Coastal Sharks Board meeting on May 3, 2012, however, the item may still be added to the agenda for discussion at the Board meeting.

Mr. Grist said that staff recommends advertising for a May 22, 2012 public hearing, amendments to Chapter 4VAC 20-490-10, et seq., "Pertaining to Sharks" to set the Virginia commercial spiny dogfish quota, for May 1, 2012 through April 30, 2013, at either 3,161,358 pounds, or 3,776,025 pounds.

Acting Commissioner Travelstead announced that the public hearing was approved by a consensus of the Board.

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**14. REQUEST FOR PUBLIC HEARING:** Establishment of daily trip limits for Spanish mackerel to comply with the ASMFC fishery management plan.

Joe Grist, Acting Deputy Chief, Fisheries Management, gave the presentation and his comments are a part of the verbatim record. Mr. Grist stated that this was simply a housekeeping effort to make the Virginia Regulation comply with the Federal requirements.

Mr. Grist explained that the Atlantic States Marine Fisheries Commission, South Atlantic State/Federal Fisheries Management Board adopted the Omnibus Amendment for Spot, Spotted Sea Trout, and Spanish Mackerel, on August 4, 2011. The amendment places all three special under the requirements of the 1993 Atlantic Coastal Fisheries Cooperative Management Act and the 1995 Interstate Fishery Management Program Charter.

Mr. Grist also explained that the Spanish Mackerel is jointly managed by ASMFC and the South Atlantic Fishery Management Council. He said during an ASMFC compliance plan review of Virginia regulations, pertaining to Spanish Mackerel, it was noted that the Virginia commercial landings limit is not a daily limit, but only a trip limit.

Mr. Grist said that an amendment to Chapter 4VAC 20-540-10, et seq., "Pertaining to Spanish Mackerel and King Mackerel", defining the commercial landings limit as a daily limit, instead of a trip limit, would meet the requirements of the ASMFC Omnibus Amendment.

Mr. Grist stated that staff recommends advertising for a May 22, 2012 public hearing to amend the regulation.

Acting Commissioner Travelstead announced that the public hearing was approved by a consensus of the Board.

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- 15. REQUEST FOR PUBLIC HEARING:** Proposed amendments to Regulation 4VAC20-960-10 et seq., “Pertaining to Tautog,” to establish the 2012-2013 recreational and commercial management measures, including the establishment of a commercial fishery control rule.

Joe Cimino, Biological Sampling Program Mgr., gave the presentation and his comments are a part of the verbatim record.

Mr. Cimino explained that an error in the input to the 2011 update to coastwide stock assessment model was discovered. The error caused an overestimation of fishing mortality in the terminal year of the model (2009). The ASMFC Tautog Management Board set the adjusted requirement for the harvest reduction at 39%. The Management Board noted that the states “can employ a combination of bag limits, size limits and/or closed seasons based on approved methodologies, from the initial Addendum VI reduction process.

Mr. Cimino said that staff provided the proposed options to the FMAC at the meeting on April 16. FMAC made a motion, unanimously, to recommend to the Commission, options to adjust the closed season for the commercial fishery (Table 1) and adjust the closed season and bag limit for the recreational fishery for the remainder of 2012 (Table 2).

Table 1: Commercial Fishery

<b>Current regulation, est. Dec 6, 2011</b>			
<b>Size</b>	<b>Closed Season</b>	<b>Closed Days</b>	<b>% Reduction</b>
15	Jan 18- Mar 15; May 1- Nov 12	253	50.5
<b>2012 Proposed option</b>			
<b>Size</b>	<b>Closed Season</b>	<b>Closed Days</b>	<b>% Reduction</b>
15	Jan 18- Mar 15; May 1- Aug 31	180	41.21

Table 2: Recreational Fishery

<b>Current regulation, est. Dec 6, 2011</b>				
<b>Size</b>	<b>Bag</b>	<b>Closed Season</b>	<b>Closed Days</b>	<b>% Reduction</b>
16	3	April 16- September 23	161	50.5
<b>2012 Proposed option</b>				
<b>Size</b>	<b>Bag</b>	<b>Closed Season</b>	<b>Closed Days</b>	<b>% Reduction</b>
16	4	April 16- July 31	107	42.0

Mr. Cimino stated that FMAC recommended to the Commission that no control date for the Commercial fishery be pursued at this time. There were also two public comments received prior to FMAC from commercial tautog fishermen that the control date not be pursued.

Mr. Cimino said that staff recommended advertising for a May 2012 public hearing for the proposed amendments to Regulation 4VAC 20-960-10, et seq., “Pertaining to Tautog”, to establish the 2012 recreational and commercial management measures.

Acting Commissioner Travelstead asked for clarification if a control date was not recommended. Mr. Cimino said correct.

Acting Commissioner Travelstead announced that the public hearing was approved by a consensus of the Board.

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- 10. PUBLIC HEARING:** Proposed amendments to Regulation 4 VAC20-900-10 et seq., “Pertaining to Horseshoe Crabs,” to modify the commercial landings limit of horseshoe crabs, from waters east of the COLREGS line, by trawl and non-trawl gears.

Alicia Nelson, Fisheries Management Specialist, gave the presentation and her comments are a part of the verbatim record.

Ms. Nelson explained that on March 27, 2012, the Commission passed emergency amendments to Chapter 4VAC 20-900-10, et seq. to redistribute the horseshoe crab allocation east of the COLREGS line, for trawl and non-trawl gears, effective March 29, 2012. This regulation allocated 27.512% (41,954 horseshoe crabs) of the commercial

quota east of the COLREGS line to non-trawl gears and 12.488% (19,044 horseshoe crabs) to trawl gear. This emergency action was in response to industry concerns that the dredge fishery would land the entire quota allocation, from east of the COLREGS line, before the Commission meeting.

Ms. Nelson said this proposal had been advertised in accordance with Code Section 28.2-209, for a public hearing today. Staff has not received any written comments to date.

Ms. Nelson said that staff recommended adoption of the amendments to Chapter 4VAC 20-900-10, et seq., which re-allocates the commercial landings limits of horseshoe crabs from waters east of the COLREGS line, for trawl and non-trawl gears.

Acting Commissioner Travelstead asked for questions. There were none. He said no one was present to comments for the public hearing and stated the matter was before the Commission.

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

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**11. PUBLIC HEARING:** Proposed amendments to Regulation 4 VAC20-1120-10 et seq., "Pertaining to Tilefish and Grouper", to modify the commercial possession limit for tilefish.

Joe Grist, Acting Deputy Chief, Fisheries Management, gave the presentation. His comments are a part of the verbatim record.

Mr. Grist said that at the January 2012 new regulation were established on the possession limit. During the Commission's public comment period on February 28, 2012, Chris Ludford, a commercial harvester, requested that the amendment that set the blueline tilefish possession limit at 200 pounds at the January meeting be reconsidered. Mr. Ludford comments that a blueline tilefish possession limit set at 300 pounds allows a commercial harvester to cover fuel costs and assist in making a trip offshore profitable. Mr. Ludford commented that a lower amount hinders trip profits and makes it more difficult during the current economic conditions.

Mr. Grist said that during the Commission's public comment period on March 27, 2012, Harry Doernte, a commercial harvester, also recommended the blueline tilefish possession limit be raised to 300 pounds. Mr. Doernte requested a new public hearing be approved to consider this request, as they were targeting black sea bass in the upcoming months, and the ability to have 300 pounds of blueline tilefish, instead of 200 pounds, would help with the costs of the trip, particularly, fuel costs.

Mr. Grist said that in response to these requests, the Commission recommended a public hearing be held at the April 24, 2012 meeting, and to have the FMAC also provide advice on this issue, prior to a public hearing.

Mr. Grist said that on April 16, 2012, FMAC was provided with the public comments to the Commission by Mr. Ludford and Mr. Doernte. FMAC endorsed a staff proposal to increase the commercial possession limit for blueline tilefish from 200 to 300 pounds. The amendments to the regulation are on Page three of the draft regulation.

Mr. Grist said that the proposal had been advertised in accordance to Code Section 28.2-209, for a public hearing. Staff did receive April 23, 2012, one public comment since the FMAC meeting.

Mr. Grist said that staff recommended the adoption of the amendments to Chapter 4VAC 20-1120-10, et seq., "Pertaining to Tilefish and Grouper", to establish the commercial possession limit for blueline tilefish at 300 pounds.

Acting Commissioner Travelstead asked for questions.

Associate Member Fox asked if fishermen can gut the fish or does he have to leave the fish whole for inspection. Mr. Grist said he could gut the fish, but the weight would be 273 pounds. Acting Commissioner Travelstead stated the Commission could add this to the regulation. Mr. Grist stated it could be so that it would be clear.

Associate Member Schick asked if the average weight was 300 pounds. Mr. Grist stated yes and to benefit the welfare of the industry there could be new language added for the golden tilefish, 500 pounds whole and 450 pounds gutted and the blueline tilefish, 300 pounds whole and 273 pounds gutted.

Acting Commissioner Travelstead stated that no one was present comment for the public hearing. He said the matter was before the Commission.

**Associate Member Palmer stated that FMAC at their meeting April 16<sup>th</sup> did not discussed fish being gutted. He moved to accept the staff recommendation with the amendments to be added, 273/450 pounds gutted and 300/500 pounds whole. Associate Member Tankard seconded the motion. Mr. Grist noted that the gutted weight had not been advertised. Paul Kugelman referred to Code Section 28.2-210 and Acting Commissioner Travelstead explained that the gutted weight was not more restricted and allowed for more opportunity. The motion carried, 7-0. The Chair voted yes.**

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12. **PUBLIC HEARING:** Proposed amendments to Regulation 4VAC20-950-10 et seq., "Pertaining to Black Sea Bass," to modify the commercial fishery possession limit.

Alicia Nelson, Fisheries Management Specialist, gave the presentation. Her comments are a part of the verbatim record.

Ms. Nelson said that during the March 27, 2012 Commission meeting, Michelle Peabody of Peabody, Inc. and Fella Daniel of Old Point Packing requested an emergency amendment to Chapter 4VAC 20-950-10, et seq., "Pertaining to Black Sea Bass" that would authorize vessels to possess a maximum of both the Virginia and North Carolina landing limits of black sea bass in Virginia waters. Their request was consistent with emergency amendments adopted for summer flounder during the February 28, 2012 Commission meeting, in that the emergency amendments would provide for the economic welfare of the seafood industry. The Commission adopted the emergency amendments to all vessels to possess the North Carolina landing limits in addition to the Virginia landing limits for black sea bass.

Ms. Nelson stated that black sea bass and summer flounder are often harvested together by the offshore trawl fleet.

Ms. Nelson read the proposed amendments from pages 4 through 6 of the draft regulation. This proposal had been advertised in accordance with Code Section 2.2-209 for a public hearing. Staff had not received any public comments to date.

Ms. Nelson said that staff recommended adoption of the amendments to Chapter 4VAC 20-950-10, et seq., "Pertaining to Black Sea Bass", to modify the commercial fishery possession limit as the combined total of the Virginia land limit and the amount of the legal North Carolina landing limit.

Acting Commissioner Travelstead asked for questions. He asked if for summer flounder there had been any problems. Ms. Nelson said she had not heard of any problems.

Acting Commissioner Travelstead noted that there was no one present to comment for the public hearing. He stated the matter was before the Commission.

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

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16. **REQUEST FOR PUBLIC HEARING:** Proposed amendments to Regulation 4VAC20-1230-10 et seq., “Pertaining to Restrictions on Shellfish,” to establish stricter public and private warm-water oyster harvest measures, for public health safety.

Jim Wesson, Head, Conservation and Replenishment, comments are a part of the verbatim record. Dr. Wesson provided a hand out of the draft regulation which had been changed since the mail out to the Associate Members.

Dr. Wesson explained that for the past several years staff had been working with the Division of Shellfish Sanitation (DSS) and the shellfish industry to implement harvest regulations in the warm water months, May through September, that protect human health from naturally occurring bacteria in raw shellfish.

Dr. Wesson said that in late September, 2011, Virginia had a second confirmed case of *Vibrio vulnificus* (*Vv*) illness due to oyster consumption from shellstock oysters harvested in Virginia. He informed the Board that Dr. Robert Croonenberghs with the VDH-Division Shellfish Sanitation was here to explain why these new restrictions were necessary.

Robert Croonenberghs, VDH-Division of Shellfish Sanitation, was present and his comments are a part of the verbatim record. Dr. Croonenberghs stated that there had been a second case of *Vv*, which is a naturally occurring bacterium when the water is warm. He explained that once oysters were harvested they could not continue to pump water, and warm conditions really elevated the concentration of *Vv*.

Dr. Croonenberghs stated that there were two types of *V bacteria*, *Vibrio vulnificus* and *Vibrio parahaemolyticus* (*Vp*). He explained that *Vv* grows to high numbers, but not all people get sick unless there are existing health problems which make the individual more susceptible to the bacteria. He said no more than 15 to 25 people nationwide on average get sick each year. He said half of these people usually die a quick and horrible death. He said because of the national concern, the Food and Drug Administration (FDA) and ISSC are all responding the public concern. He explained that when the states had two or more cases they have to establish significantly more restrictive regulations. He said the State of Virginia had its first case from James River oysters in June 2006 and the second case was from Yeocomico River shell oysters in September 2011. He said the second case involved a man who ate just one raw oyster and it was not reported as an oyster from Virginia until mid January 2012. He said the State of Delaware investigated the restaurant and dealer in Delaware and they met all NSSP regulations. He said the ISSC Illness and Review Committee decide whether to accept those findings and by Mid-March they did decide to accept it. He stated this Committee includes Federal, State, and Professional individuals.

Dr. Croonenberghs said that the FDA really wants to require Post Harvest Processing (PHP) for all oysters, not these requirements proposed in this regulation. He noted the FDA wants:

- 1) Radiation,
- 2) High pressure,
- 3) Frozen, or,
- 4) Pasteurization.

Acting Commissioner Travelstead asked for questions.

Associate Member Tankard asked if these two incidences involved native oyster or cultured oysters. Dr. Croonenberghs said that the James River incident is wild and the Yeocomico River maybe involved spat on shell oysters.

Associate Member Tankard talked about whether the incidents are greater on Bayside than Seaside because the nitrogen and *vibrio* combination make the incidences go up. He asked if the VDH would be starting a review of the water body being damaged by wastewater or vibrio because of increased in nitrogen. He expressed his concern that the harvester was paying the price when it was not their fault. Dr. Croonenberghs said that there had been some good studies done by good biologist, but the correlation between nitrogen was not known. He said it could not be done right now as they do not see the difference in the numbers and do not know the effective dosage.

Acting Commissioner Travelstead said this second case in Virginia puts the State in with other Gulf States, but it was the only East Coast State except for Florida. He said it was only Gulf States and asked how many cases in the Gulf. Dr. Croonenberghs explained that in Louisiana there was an average of 15 cases per year. Acting Commissioner Travelstead reiterated that was the number per year. Dr. Croonenberghs responded, yes, ten times as many as Virginia. Acting Commissioner Travelstead stated that Virginia was better off considering the millions of meals the number of cases was really low. Dr. Croonenberghs said it was very low, but now that more shellfish are being produced it was more likely to happen. Acting Commissioner Travelstead stated that there was concern that if Virginia does not act other states would use this against Virginia for marketing their oysters. He stated there was a need to be responsible.

Associate Member Schick asked if the individuals who got sick had other health problems. Dr. Croonenberghs stated that some were healthy, but most had health issues. Associate Member Schick stated that heat abuse can occur somewhere along the chain, but the inspections were done and said okay. Dr. Croonenberghs said there was no temperature abuse by Delaware by either place so the producing State was the assigned the case.

Associate Member Fox asked if it was less likely to occur if the oyster was shucked than cooked. Dr. Croonenberghs said yes it was better, but there were still a few cases involving shucked and cooked.

Dr. Wesson said the State needed to act because it was a marketing plus for our industry to be proactive. He explained that there had been two public hearings on the Eastern and Western shores and both were well attended. He said they were shown a summary of changes. He stated that for so many to attend and there some negative comments, but they understood that the PHP would be required if the State did not comply. He said there was a need to shorten the exposure to warm weather more than was done before. He said before the curfew was May and September 12 noon, July and August 10 a.m., now the hours will be cut in June 2 hours and July and August 2 ½ hours for direct harvest without ice. He said the GPS tracking device can be used to work outside the curfew. He noted that last year they had tightened the icing requirements in the James River and that had worked better for Law Enforcement and now it was recommended for bay-wide use, approved by the VDH-Division of Shellfish Sanitation. He explained that shucking and cooking does lower *Vibrio* bacteria and other States now have a green tag and staff recommends adding the use of the "Restricted-Use" tag. He said the agency would maintain a record of the tag lots and it would only be issued to licensed shucking houses. He added the shucking house would give them to the harvester. He noted this would allow a 12 noon curfew, but the oysters are not to be comingled and only allow intrastate sales. He said the Bulk Seed permit was for the transplanting of wild seed. He said the individual who were doing aquaculture would need to obtain an oyster cage husbandry permit to just work on their oysters outside of the curfew time. He stating that shading of the harvested oysters onboard the vessel is required and to transport the shellfish by truck was limited to one hour.

Dr. Wesson said that last month staff had requested that the decision on 4VAC 20-1250-10 be held off so that the green tag requirement could be added. He said staff recommended the advertisement of amendments of both 4VAC 20-1230-10 and 4VAC 20-1250-10 for public hearings at the May 2012 Commission meeting.

Acting Commissioner Travelstead asked for questions.

Associate Member Tankard asked how long had watermen harvested in the summer. Dr. Wesson said they have all along, but the harvest had really gone up and for the aquaculture oysters this is the best market as they do not have to compete with the public fisheries. He said for retailing, the buyers were given the best prices. He said there were more chances for more cases when more oysters are handled. He said the State is allowed three cases per year out of 100,000 plates served. He reiterated that Virginia wants to stay out of that group.



Acting Commissioner Travelstead asked if this was exceeded would it mean the requirement for PHP. Dr. Croonenberghs stated yes, if what was in place was not working.

Acting Commissioner Travelstead asked about the number in attendance to the public meetings. Dr. Wesson responded 40 to 50 at both.

Associate Member Plumlee asked about the restaurant requirements. Dr. Croonenberghs said no new regulations were necessary as what was in place should work.

Acting Commissioner Travelstead explained that this was a request for a public hearing and asked if there were any objections. There were none.

Acting Commissioner Travelstead announced that the public hearing was approved by a consensus of the Board.

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**17. BLUE CRAB DISCUSSION:** Results of the 2011-2012 Chesapeake Bay-Wide Winter Dredge Survey.

Rob O'Reilly, Acting Chief, Fisheries Management, gave the presentation with slides. His comments are a part of the verbatim record. He reviewed a number of charts for the Board.

Mr. O'Reilly explained that there was a press release issued by the Governors of Virginia and Maryland, which includes information which would be reviewed. He said the 2011 and 2012 Bay-wide Winter Dredge Survey is the first annual winter dredge survey to be completed after the new stock assessment. He said the results are presented in terms of total crabs and females only. He noted that there is a timeline of Commission actions for improving the crab stocks since 2008 included in the packets. He noted also that the Commission has held to these management measures with very little changes. He said the results of the 2012 Blue Crab Winter Dredge survey determined the total population of blue crabs in the Chesapeake Bay has reached 764 million. He said this is the highest number since the early 1990's.

Mr. O'Reilly said the female spawning crab abundance was estimated as 97 million crabs, which is below the target abundance of 215 million spawning-age female crabs for the second consecutive year. He stated the total population is not overfished, but the managers were still somewhat concerned about the low abundance of females. The overfished limit now is 70 million for female crabs. He added that 70 million is considered the threshold for female crabs. He explained that the current female spawning age abundance is squarely in the middle of the 23 years of the Winter Dredge Survey. He said now everyone must wait to see how many of the female crabs make it to the

spawning seasons. He noted the 1<sup>st</sup> spawning season is in May and the second one is in August.

Mr. O'Reilly said that originally the targeted abundance amount of crabs was 200 million for all crabs, not just the female, but with the new method of survey that 200 million is now the number for just spawning-age females crabs needed.

Mr. O'Reilly noted that the new survey shows this year's crab abundance increase is the result of the massive bay-wide recruitment boom, with an almost tripling of the number of juvenile crabs from 207 million last year to 587 million. He said that the juvenile crab abundance has never been recorded at such high levels and this record obliterated the old record of 512 million juveniles established in 1993.

Mr. O'Reilly explained that the winter dredge survey showed that the number of spawning age females recorded by the survey dropped by approximately 50 percent from the 2011 levels, down to 97 million.

Mr. O'Reilly advised the Commission that a crab dredge subcommittee would be formed to devise an experimental approach to determining the extent of damage to crabs from dredging activities. In addition, he advised the Commission that staff would look at the feasibility of extending the crab pot season in December. He informed the Commission that such an extension would also be based on removing the prohibition on harvests of female crabs during the last 10 days of November.

After some further discussion, no action was taken.

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There being no further business, the meeting was adjourned at approximately 1:36 p.m. The next regular meeting will be held Tuesday, May 22, 2012.

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Jack G. Travelstead, Acting Commissioner

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Katherine Leonard, Recording Secretary