

MINUTES

Commission Meeting

May 24, 2016

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

John Bull	Commissioner
Chad Ballard	
AJ Erskine	
Lynne Kellum	
Wayne France	Associate Members
James E. Minor	
Ken Neill, III	
John E. Tankard	
John E. Zydron	
Matthew Hull	Assistant Attorney General
Laurie Naismith	Director, Public Relations
Katherine Leonard	Recording Secretary
Jane McCroskey	Chief, Administration-Finance
Linda Hancock	Director, Human Resources
Dave Lego	Business Systems Specialist
Robert O'Reilly	Chief, Fisheries Mgmt.
Jim Wesson	Head, Conservation/Replenishment
Joe Cimino	Deputy Chief, Fisheries Mgmt.
Stephanie Iverson	Fisheries Management Mgr.
Jill Ramsey	Fisheries Mgmt. Specialist
Lewis Gillingham	Director, SWFT
Adam Kenyon	Fisheries Mgmt. Specialist
Katie May Laumann	Fisheries Mgmt. Specialist
Ryan Jiorle	Fisheries Mgmt. Specialist
Chris Davis	Fisheries Mgmt. Specialist
Rick Lauderman	Chief, Law Enforcement
Warner Rhodes	Deputy Chief, Law Enforcement
Rob Berryman	Captain, Law Enforcement
Dave Rabon	Marine Police Officer
Richard Pruitt	Marine Police Officer
Steven Bennis	Marine Police Officer

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Ron Cagle

Marine Police Officer

Tony Watkinson

Chief, Habitat Management

Chip Neikirk

Deputy Chief, Habitat Management

Jeff Madden

Environmental Engineer, Sr.

Hank Badger

Environmental Engineer, Sr.

Randy Owen

Environmental Engineer, Sr.

Ben Stagg

Chief Engineer Western Shore

Mark Eversole

Environmental Engineer, Sr.

Justin Worrell

Environmental Engineer, Sr.

Mike Johnson

Environmental Engineer, Sr.

Rachael Maulorico

Environmental Engineer, Sr.

Jay Woodward

Environmental Engineer, Sr.

Brad Reams

Environmental Specialist

Daniel Faggert

Surveyor, Engineering/Surveying

Virginia Institute of Marine Science (VIMS):

Lyle Varnell

Emily Hein

Susanna Musik

Others present:

Don Lancaster

E. Perkins

Kim Huskey

Teri Nadal

George W. Sanford, Jr.

Ed Arnest

Martin Sproek

Kristen Scheler

Sannon Reinheimer

Jed Boba

Mike Anderson

Justin Heck

Pat Link

Cliff Bocchiechio

Mike Avery

Mark Stein

Bob Reed

Brian Watkins

Mike Wills

Lewis Brothers

Jonathan French

Stan Bishop

William Cox

Glenn Oder

Jamie Weist

Gary Caputi

Jeff Deem

Jackie Shannon

Chris DeMasi

Wes Blo

George Freeman

Victor Minak

William L. Regula

Kelly Hoggord

Jane Conan

Jorj Head

David Leslie

John Matson

Nathan Henry

David Bochnlein

Gerald Corallo

Brian Olszyk

Bob Hayden

Robert Smith

Beth Synowiec

Zack Hoffman

Jon Kwonski

Lee Williams

William Graham

and others.

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Commission Meeting

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May 24, 2016**

Commissioner Bull called the meeting to order at approximately 9:34 a.m. All members were present.

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

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APPROVAL OF AGENDA: Commissioner Bull asked if there were any changes from the Board members or staff. There were none.

Associate Member Zydron moved to approve the agenda. Associate Member Erskine seconded the motion. The motion carried, 9-0.

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MINUTES: Commissioner Bull asked if there were any changes or corrections to be made to the April 26, 2016 Commission meeting minutes. There were no changes.

Associate Member Erskine moved to approve the minutes, as presented. Associate Member Zydron seconded the motion. The motion carried, 8-0-1. Chair abstained since he was absent from the last meeting.

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

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

Tony Watkinson, Chief, Habitat Management, informed the Commission that there was one page two item to be heard, Item 2A. He reviewed this item for the Board. His comments are a part of the verbatim record.

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

Associate Member Zydron moved to approve Item 2A. Associate Member Minor seconded the motion. The motion carried, 9-0. Chair voted yes.

- 2A. U. S. COAST GUARD, #15-0075,** requests authorization to place approximately 25,000 cubic yards of sandy dredge material along 2,200 linear feet of the York River shoreline as beach nourishment and the overboard disposal of approximately 50,000 cubic yards of bottom material, from the Wormley Creek Federal Channel, at the Wolf Trap Alternate Disposal Site in the Chesapeake Bay. Recommend approval for a one-time placement of material at the Wolf Trap Alternate Disposal Site, but not as a long-term site to future material from the Wormley Creek Federal Channel. The material may only be placed at the Wolf Trap Alternate Disposal Site between April 1 and November 30, and a turbidity curtain shall be deployed during placement of the material along the York River shoreline.

Permit Fee	\$100.00
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- 3. CONSENT AGENDA ITEMS.** None.

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- 4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.** A closed meeting was not necessary.

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- 5. ROANOKE CEMENT COMPANY LLC, #16-0237,** requests authorization to install one (1) 17-foot by 28-foot breasting dolphin with fender systems, one (1) 9-foot by 9-foot mooring dolphin, an 85-foot by 100-foot unloading platform with fender system, a 4-foot by 70-foot gangway; and repair or replace up to 367 14-inch diameter timber piles that support an existing concrete wharf along the Southern Branch of the Elizabeth River at their facility at 1331 Priority Lane in the City of Chesapeake. This project requires a wetlands and subaqueous permit.

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

Ms. Maulorico explained that after evaluating the merits of the project and considering all of the factors contained in §28.2-1205(A) and §28.2-1302(10)(B) in the Code of Virginia, staff recommended approval of the project conditioned upon the adherence to the VIMS recommended pile driving conditions. Staff is of the opinion that no compensation is necessary for the minimal non-vegetated wetlands impacts. Staff recommended a royalty of \$2.00 per square foot for the encroachment of the mooring dolphin on 81 square feet of

State-owned submerged land that is adjacent to the Kerneos Aluminate property and therefore does not qualify for the royalty exemption provided in §28.2-1206B(ii).

Cliff Bocchiechio, representing the applicant, was sworn in and his comments are a part of the verbatim record. Mr. Bocchiechio explained that the staff had covered the matter well. He stated they just wanted to provide a secure berthing for the boats.

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

Associate Member France moved to accept the staff recommendation. Associate Member Minor seconded the motion. The motion carried, 9-0. Chair voted yes.

Royalty Fee (encroachment 81 sq. ft. @ \$2.00/sq. ft.)	\$162.00
Permit Fee	\$100.00
Total Fees	\$262.00

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6. BLACKBEARD POND PARTNERSHIP, LLC #16-0254, requests authorization to dredge approximately 1,220 cubic yards of State-owned submerged land to improve navigational ingress and egress to an existing marina situated along the Potomac River at 190 Plantation Drive in Westmoreland County. The project is protested by an oyster ground leaseholder and nearby residents.

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

Mr. Madden explained that staff recommended approval of the project as proposed, with the standard dredge royalty, and the following conditions:

- The Permittee agrees to deploy a turbidity curtain, designed for the expected wave climate, and that device will be deployed and maintained during all dredge operations while allowing vessel access.
- The Permittee shall provide a post-dredging bathymetric survey of the dredged area within 30 days of the completion of the dredging. The survey shall be signed and dated as being accurate and true. The survey shall be referenced to mean low water and shall include at least ten (10) evenly spaced transects across the width of the dredged inlet channel with soundings taken at intervals not exceeding ten feet. Accurate bathymetric data, from each transect, shall be used to establish the top width of the dredge cut (+/- 1') and shall include a depth measurement exterior to both sides of the dredge cut.

- The post-dredge survey depths shall vary uniformly around the permitted dredge depths, with the average depth approximating minus seven (-7) feet at mean low water. Any areas dredged deeper than seven and one-half feet (-7.5') may be considered a violation of the permit and subject to enforcement action.
- A pre-dredging conference shall be held on site prior to the commencement of any dredging. The meeting shall be attended by the Permittee, the dredging contractor and a member of the VMRC staff. The meeting shall be held within seven (7) days prior to the commencement of any dredging and shall include an inspection of the previously staked dredge area and the dredge material containment area.
- Maintenance dredging may be conducted through May 24, 2021, provided the Permittee notifies the Commission at least 15 days prior to the commencement of each dredging operation. The maintenance dredging notification shall include a description of the disposal site and verification of authorization to use the site if it is on property not owned by the Permittee.

After further discussion, the applicant or a representative was asked for comments.

Marty Spitek, representing the applicant, was sworn in and his comments are a part of the verbatim record. Mr. Spitek explained that they wanted to provide a safe harbor and easy access for their business. He noted that they were the largest employer and a member of the community. He said they were aware of their surroundings and wanted to be a good neighbor, but they need the access for their business. He said they agreed with the recommendation for the use of the curtain during the dredging operation and he asked the Commission not to impose conditions that would impact their business and their employees.

Commissioner Bull asked if there were any comments in opposition.

Ed Arnest, leaseholder and protester, was sworn in and his comments are a part of the verbatim record. Mr. Arnest stated that he was not originally notified by the landowner. He noted that there was some spat on this side of the river at Ragged Point. He stated he was concerned with what happens after the dredging was done and if it would cause his lease to be silted over.

George W. Sanford, Jr., protestant, was sworn in and his comments are a part of the verbatim record. He stated the nearby highland property had been in his family for 68 years. He added that he actually owned the beach for one mile and the lot owners along this area were allowed to use the beach. He explained that the winds and storms cause the sand to move from the south to the north and in the past he has had to put in jetties and seawalls to protect their beach. He said the Commission should protect the general population to the south.

Mr. Spitek in his rebuttals comments said that the project did not cause the sand movement that it was caused by nature.

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

When asked, Lyle Varnell, representing VIMS explained that it was a legitimate concern about the sand movement and currents, but it differed from site to site. He said the dredging will influence temporarily the sand movement and currents, but it would not be permanent. He also noted that the Potomac River was a high energy river mostly storm driven. He said the dredging does not cause the change in the environment in the area. He stated that there were various and creative ways to use the turbidity curtain that would not impact the egress and regress.

Commissioner Bull asked for a motion.

Associate Member Ballard moved to approve the staff recommendation including an additional permit condition requiring dredging operations only during flood tides. Associate Member Minor seconded the motion. The motion carried, 8-0. Chair voted yes. Associate Member France recused himself from this hearing.

Royalty Fees (dredging 1,220 cu. yards @ \$0.45/cu. yd.)	\$549.00
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- 7. **GARY S. KILMON, #2014-224**, requests authorization to lease approximately ten (10) acres of planting grounds within the South Yeocomico River in Northumberland County. The application is protested by the Twin Rivers Waterman’s Association.

Ben Stagg, Chief Engineer, Western Shore gave the briefing of the information provided in the staff’s evaluation with slides. His comments are a part of the verbatim record.

At the suggestion of Matthew Hull, Assistant Attorney General and VMRC Counsel, Associate Member France excused himself from this item due to the fact that he was the President of the Twin River Watermen’s Association. Associate.

Mr. Stagg stated that Mr. Kilmon does have two other oyster ground leases in the North Yeocomico River, which he has held since 1997 and 1998 respectively, the agency has no record, in our mandatory reporting system, of any commercial harvest from either lease.

Mr. Stagg explained that after evaluating the request of Mr. Kilmon, who indicated he wishes to use the area for traditional on bottom use, and weighing the concerns of the protestants, comments from the VMRC Conservation and Replenishment Department, and review of the bottomlands of the application area by the Engineering/Surveying Department, staff recommended leasing an area at the northeastern most portion of the

original application, containing approximately 3 to 4 acres and denial of the remaining portion of the application.

Associate Member Erskine stated he would be abstaining from the voting.

Mr. Stagg noted that the applicant was notified of the hearing and was not present.

Commissioner Bull opened the hearing for public comments, pro or con.

Wayne France, President of the Twin Rivers Watermen Association, was sworn in and his comments are a part of the verbatim record. Mr. France explained that the association was opposed to leasing oyster grounds next to public grounds and there were concerns that poaching could occur; and, most of the area requested was sanded bottom and the winds and flow of the currents cause the sand to move. He added he was not saying the applicant would poach.

As there were no other public comments, the public hearing was closed. Commissioner Bull stated the matter was before the Commission for discussion or action.

When asked, Dr. Jim Wesson, Dept. Head, Conservation and Replenishment explained that staff was opposed to this lease being approved because it was next to public ground number 107, which the State plants with seed. He said this was done because there was no natural strike and it did help the hand tongsers in the area.

Associate Member Ballard moved to deny the application. Associate Member Minor seconded the motion. The motion carried, 7-0-1. Chair voted yes. Associate Member Erskine abstained from voting. Associate Member France excused himself because he was President of the Twin Rivers Watermen Association and spoke on behalf of the members for this item.

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8. **REQUEST FOR PUBLIC HEARING:** Proposal to establish a regulation to create a safety/restricted zone for the purpose of enhancing security and safety within an area encompassing the James River Reserve Fleet (JRRF) within the James River near Mulberry Island. Request for a public hearing at the June 28, 2016, Commission meeting.

Ben Stagg, Chief Engineer, Western Shore gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record.

Mr. Stagg explained that this request for a public hearing was based upon a request from the U. S. Maritime Administration, James River Reserve Fleet Superintendent for assistance in enforcing the area under Federal regulation pursuant to Title 33, Chapter 1,

Subchapter P, Part 162 (33 CFR 162.270) within the James River and the creation of a safety/restricted area to prevent unauthorized vessels in and around the James River Reserve Fleet.

Mr. Stagg further explained that the new regulation would provide additional regulatory authority pursuant to the Code of Virginia, §28.2-201 and §28.2-106.2 for the Virginia Marine Police to enforce Virginia law that prohibits entrance into restricted areas. The Reserve Fleet Superintendent also has noted opposition to pending oyster ground leases within this area and staff believed this regulation will provide additional rationale to not lease any new areas within the area defined in the regulation.

Matthew Hull, Assistant Attorney General and VMRC Counsel noted that this should not exclude those leaseholders with existing leases within the security area. Mr. Stagg noted that the Maritime group agreed with allowing the existing leases in the area.

After much discussion, Associate Member Neill moved to advertise for a public hearing at the June meeting. Associate Member Minor seconded the motion. The motion carried, 9-0. Chair voted yes.

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9. PUBLIC COMMENT: None

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10. OFFENDER:

Edwin Allen Cooper – not present

Warner Rhodes informed the Commission that Mr. Cooper was notified of the hearing and a member of Mr. Cooper’s family called him to let the Commission know that Mr. Cooper would not be at the hearing due to no transportation.

Associate Member Neill moved to move forward with the hearing. Associate Member Minor seconded the motion. The motion carried, 9-0.

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

September 13, 2015—Fish Potting without a License—§28.2-225 of the Code of Virginia; October 14, 2015, Accomack County General District Court; Fine: \$50.00; Court Cost: \$121.00.

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Joe Cimino, Deputy Chief, read the staff's recommendation. Mr. Cooper is currently on probation from August 25, 2015, through August 24, 2017, for taking oysters out of season and from a condemned area. The Commission's guidelines for sanctions specify that if a person put on probation by the Commission fails to obey any of the laws or regulations relating to the Marine Resources of the Commonwealth during their probationary period should result in an appearance before the Commission for a hearing on license revocation. In accordance with §28.2-232 of the Code of Virginia, staff recommended the Commission revoke all Mr. Cooper's Commission-issued licenses for a period of one year from the date of this Commission meeting, May 24, 2016, through May 23, 2017. Staff also recommended the Commission prohibit the issuance, reissuance, and renewal of any of Mr. Cooper's licenses during this revocation period. Staff recommended the Commission revoke Mr. Cooper's fishing privileges, within the Commonwealth's tidal waters, for a period of one year from the date of this Commission meeting, May 24, 2016, through May 23, 2017.

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

Associate Member Erskine explained that base on the testimony and Mr. Cooper's history of resource violations, he moved to accept the staff recommendation for one year revocation of all of Mr. Cooper's licenses and fishing privileges, starting May 24, 2016, through May 23, 2017. Associate Member France noted that Mr. Cooper did not show up in court and at this VMRC hearing and he seconded the motion. The motion carried, 8-1. Chair voted yes. Associate Member Neill said he felt that it was not long enough and voted no.

Jamie Lowney – not present.

When asked, Joe Cimino, Deputy Chief, Fisheries Management stated that the signed service notice of the hearing today was included in the Commission notebooks.

Commissioner Bull asked if the Commission wanted to proceed with the hearing. It was the consensus of the Board to continue.

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

October 9, 2015-Failure to Have Appropriate License (Hook and Line)—§28.2-201 of the Code of Virginia; 4 VAC 20-252-120; March 10, 2016, Gloucester County General District Court; Fine: \$100.00; Court Cost: \$25.00.

October 9, 2015-No Striped Bass Tags (or Permits)--§28.2-201 of the Code of Virginia; 4 VAC 20-252-120; March 10, 2016, Gloucester County General District Court; Fine: \$100.00; Court Cost: \$25.00.

Joe Cimino, Deputy Chief, Fisheries Management read the staff's recommendation. The Commission's guidelines for sanctions specify that two commercial fishing gear convictions, within a 12 month period, and two convictions of possession of commercially untagged striped bass, within a 24 month period, should both result in at least one year probation. However, given the severity of the situation and the specific details of this case, staff is recommending one year revocation. In accordance with §28.2-232 of the Code of Virginia, staff recommended the Commission revoke all Mr. Lowney's Commission-issued licenses for a period of one year from the date of this Commission meeting, May 24, 2016, through May 23, 2017. Staff also recommended the Commission prohibit the issuance, reissuance, and renewal of any of Mr. Lowney's licenses during this revocation period. Staff recommended the Commission revoke Mr. Lowney's fishing privileges, within the Commonwealth's tidal waters, for a period of one year from the date of this Commission meeting, May 24, 2016, through May 23, 2017.

Commissioner Bull stated the matter was before the Commission for discussion or action.

After much discussion, Associate Member Erskine moved to revoke Mr. Lowney's licenses and fishing privileges for one year followed by three years probation, starting May 24, 2016, through May 23, 2020. Associate Member Minor seconded the motion. Associate Member Zydron suggested an amendment to the motion of one and a half years revocation of all licenses and fishing privileges, starting May 24, 2016, through November 23, 2017, followed by three years probation, starting November 24, 2017, through November 23, 2020, which both Associate Members Erskine and Minor agreed. The motion carried, 9-0. Chair voted yes.

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11. **PUBLIC HEARING:** To make permanent emergency amendments to Chapter 4 VAC 20-620-10 et seq., "Pertaining to Summer Flounder," to increase the number of days that summer flounder harvested commercially from offshore may be landed in Virginia during the second landing period that began April 8.

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

Mr. Cimino noted that there had been calls received by staff from members of the industry in support of these amendments. Staff recommended adopting amendments to Chapter 4 VAC 20-620-10 et seq. "Pertaining to Summer Flounder," to modify the landing period to increase the number of days that summer flounder harvested commercially from offshore may be landed in Virginia during the second landing period that began April 8.

The public hearing was opened for comments pro or con. There were none. The public hearing was closed. Commissioner Bull stated the matter was before the Commission for discussion or action.

Associate Member Kellum moved to approve the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes. Associate Member Minor left the meeting during this item and returned for the next item.

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- 12. PUBLIC HEARING:** Proposal to establish Chapter 4 VAC 20-1310-10 et seq., "Pertaining to Jonah Crab" to comply with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Jonah Crab by June 1, 2016. The proposed regulation establishes minimum size limits, gear restrictions, and possession limits for the harvest of Jonah crab.

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

Mr. Cimino explained that staff recommended the Commission establish Chapter 4 VAC 20-1310-10 et seq. to prohibit the retention of egg-bearing females, establish a commercial minimum size, to establish a limited entry directed and a Jonah crab claw fishery, and to establish a commercial by-catch permit and commercial and recreational trip limits. This chapter also established mandatory buyer reporting.

In response to question as to how many people are involved in the fishery, Mr. Cimino responded 4 or 5 commercial fishermen and a number of recreational fishermen use them as bait.

Commissioner Bull opened the public hearing for comments, pro or con.

Wes Blow, fisherman, was present and his comments are a part of the verbatim record. Mr. Blow explained that the smaller size Jonah crabs are used by recreational fisherman as bait and he requested that a minimum size be included for the recreational fishermen. He noted that the rock crab was sometimes confused with the Jonah crab.

Commissioner Bull asked if there were any further comments and there were none. He stated that the matter was before the Commission for discussion or action.

Associate Member Erskine moved to accept the staff recommendation. Associate Member Neill seconded the motion and said to not include the recommendation for a recreational minimum size. Motion carried, 9-0. Chair voted yes.

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13. **PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-510-10 et seq., "Pertaining to Amberjack and Cobia" to consider adoption of a higher size limit, a vessel limit and closed season for the recreational cobia fishery in 2016.

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

Mr. O'Reilly explained that the National Marine Fisheries Service recently announced a June 20th closure for the recreational cobia fishery in federal waters. The Commission has many options for responding to the request to implement a similar measure in state waters; however, there are three obvious options. The first is to keep the state waters open the whole year and do nothing to existing regulations. The second is to keep state waters open past June 20th while implementing stricter regulations, in the form of increased size limits, vessel limits, and perhaps a closure later in the summer. Although slightly different, these first two options are both "out of compliance," and the degree to which Virginia would be out of compliance is likely irrelevant to other states whose fisheries are managed by this South Atlantic Fishery Management Council plan. The third option is to close state waters on June 20th. Had Virginia been able to act sooner, this federal-waters closure date could have been postponed to as late as June 28th. Many Virginia recreational anglers are not interested in enacting stricter regulations for such a small extension, so it remains at June 20th.

Mr. O'Reilly explained that after considering all the information which has been provided for the Commission, the VMRC staff recommended the closure of Virginia's state waters to recreational cobia harvest on June 20th, to align with NOAA's federal-waters closure.

Commissioner Bull opened the hearing to public comments.

There were numerous public comments from those in the recreational cobia fishery. All were not in favor of the season closure on June 20, 2016 and they felt that the closure and the way the South Atlantic Council had handled it was unfair to Virginia and would greatly impact the recreational anglers and the charter and head boat industry when the cobia were just getting to Virginia waters. It was noted by some that Virginia did not have representation on the council. There was one or two that wanted to keep the status quo and continue the season until the end of the year and the others wanted to follow North Carolina actions and set some restrictions, but not necessarily just like North Carolina. As one of the speakers pointed out this was just based on a one year spike in harvest and all agreed it was done based on bad data. It was noted that of the four states impacted Florida and Georgia were mostly in federal waters and the cobia moved up to Virginia last. Most seem to feel gaffing was not as harmful as some seem to think and prohibiting its use would actually, as one person pointed out, just increase the number of

discards. Lastly, they were generally in agreement to restricting the catch to one greater than 50” to protect the number of larger fish and to including the reporting of the harvest to the mandatory reporting system. Those who commented were as follows:

Bob Reed	Jonathan French	Mike Avery
Jeff Deem	Beth Synowiec	Jorj Head
Mike Wells	Chris DeMasi	Wes Blow
Gary Caputi		

Their comments are a part of the verbatim record.

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

After much discussion and numerous amendments, Associate Member Zydron moved to extend the recreational cobia fishing season to August 30, 2016; with a one fish per person limit and a two fish daily vessel limit, all recreational fishing vessels including for-hire (charter and head boats); minimum size 40" total length allowing one of the two fish limit to exceed 50" total length, prohibition on gaffing cobia; and to establish a method of obtaining harvest data through the mandatory reporting system. Associate Member Neill seconded the motion. The motion carried, 5-4. Chair voted no. Associate Members France, Kellum, and Erskine all voted no.

The Commission, after some discussion to clarify the mandatory reporting, agreed that the effective date of the regulation would be June 1, 2016 in order for staff to have a sufficient amount of time to finalize the regulation.

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14. REQUEST FOR PUBLIC HEARING: Proposal to amend Chapters 4 VAC 20-270-10 et seq., “Pertaining to Crabbing”; 4 VAC 20-1140-10 et seq., “Prohibition of Crab Dredging in Virginia Waters”; and, 4 VAC 20-670-10 et seq., “Pertaining to Recreational Gear Licenses.” Proposal to rescind Chapter 4 VAC 20-30-10 et seq., “Pertaining to the Licensing of Crab Traps and Pounds” and incorporate those provisions into 4 VAC 20-460-10 et seq., “Pertaining to the Use of Crab Traps and Pounds.”

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

Mr. O’Reilly explained that staff recommended the Commission authorize staff to advertise for a public hearing at the June meeting to consider amendments, consistent with Section 28.2-209 of the Code of Virginia, to the following chapters: (1) proposed amendment to Chapter 4 VAC 20-270-10 et seq. that could modify the dates of the crab

pot and other gears fishing seasons; (2) proposed amendment Chapter 4 VAC 20-270-10 et seq. and 4 VAC 20-460-10 et seq., to allow crab pound harvesters 2 weeks, in advance of the open season, to establish all auxiliary gear related to the crab pound, except the head or retention box; (3) proposed rescission of Chapter 4 VAC 20-30-10 et seq., and incorporate those provisions into 4 VAC 20-460-10 et seq.; (4) proposed amendment to Chapter 4 VAC 20-1140-10 et seq., "Prohibition of Crab Dredging in Virginia Waters"; to propose a closure to the 2016/17 crab dredge fishery season; and, (5) proposed amendment to Chapter 4 VAC 20-10 et seq. to (a) modify the fishery season dates for licensed recreational crab pot fishermen and allow Sunday harvesting of blue crab; and (b) proposed amendment to eliminate the reference, in this regulation, that a closed season is defined in Section 28.2-709 of the Code of Virginia.

After some discussion, Associate Member Kellum moved to approve the staff recommendations and to advertise for a public hearing in June. Associate Member Minor seconded the motion. The motion carried, 9-0. Chair voted yes.

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- 15. RECOMMENDATION:** From the Recreational and Commercial Fishing Advisory Boards on funding projects from the Virginia Saltwater Recreational Fishing Development Fund and Marine Fishing Improvement Fund."

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

Mr. O'Reilly explained that on May 9, 2016, the RFAB met to review and recommend projects for the 1st funding cycle of 2016. The RFAB currently operates with two funding cycles annually. The first is dedicated to access and research projects, and the second is intended for fishing events planned for the following year. Because there has been confusion over different categories for each cycle and a reduction in the funds available, the RFAB has decided to switch back to a single-cycle funding schedule, beginning in 2017. The second cycle of 2016 will move forward as scheduled (with applications due June 15, 2016).

Mr. O'Reilly said that the estimate of funds available, as of May 9, 2016, from the Virginia Saltwater Recreational Fishing Development Fund (VSRFDF) is \$553,151 after subtracting annual agency obligations. The RFAB reviewed 7 projects (A through G below) and voted to recommend the Commission fund four research and monitoring projects, totaling \$287,012.25 from the VSRFDF. Two access projects (projects A and B) were withdrawn by the respective applicants. The RFAB reviewed but did not recommend funding the Fort Monroe Finger Pier Renovation. The RFAB also reviewed and accepted revisions to the Clontz Park Boat Ramp project.

Mr. O'Reilly stated that the estimate of funds available from the Marine Fishing Improvement Fund (MFIF) is \$158,831. The Commercial Fishing Advisory Board (CFAB) was polled about partial funding of projects F and G and total funding of project H (listed below). All the CFAB members who responded supported funding each of these projects, totaling \$87,070.21 from the MFIF. The recommendations were as follows:

Clontz Park Boat Ramp Revisions

This project was unanimously recommended by the RFAB and approved for funding by the Commission during the last funding cycle; however, during the planning and permitting process, changes had to be made to the boat ramp design. The double boat ramp originally proposed had to be adjusted to a single, wider boat ramp because of parking space requirements by the Virginia Department of Game and Inland services. The new ramp will be large enough to accommodate two boats at one time. There were no changes to the total project budget. The RFAB voted to approve those changes to the project (vote: 6 in favor, 1 abstention).

Access and Fishing Structure Projects for 2016

- A) *withdrawn by applicant* York River Stewardship Marine Habitat Enhancement Project. M. Steen, Watermen's Museum, \$37,000.
- B) *withdrawn by applicant* Colonial Beach Public Boat Ramp. B. McHugh, Town of Colonial Beach, \$119,625.
- C) Fort Monroe Finger Pier Renovations. G. Oder, Fort Monroe Authority, \$195,675. The RFAB recommended against funding (4 members voted against funding, 2 members voted in favor of funding, and one member abstained). Discussion on this item is continued below.

New Projects for 2016

- D) A Brief Guide to the Ecology and Management of Striped Bass. M. Fabrizio, VIMS \$39,060. The RFAB recommended funding (vote: 4 in favor, 3 against)

Multi-Year Projects for 2016/2017 Renewal

- E) Virginia Game Fish Tagging (Year 23). S. Musick (VIMS), L. Gillingham (VMRC). \$82,931. The RFAB recommended funding unanimously.

Jointly Funded Projects for 2016/2017 Renewal

- F) *Estimating Relative Abundance of Young-of-Year American Eel in the Virginia Tributaries of Chesapeake Bay (Year 14). M. Fabrizio, T. Tuckey, VIMS.

\$46,960. (\$23,480 from VSRFDF, and \$23,480 from MFIF) The RFAB recommended funding unanimously with the exception that the project be sent back to the RFAB for further review if commercial funds were unavailable.

G) *Federal Assistance (Sportfish Restoration) Matching Funds, Federal FY 2017. R. O'Reilly, VMRC. \$165,131.50. (\$141,541.25 from VSRFDF, and \$23,590.21 from MFIF) The RFAB recommended funding unanimously with the exception that the project be sent back to the RFAB for further review if commercial funds were unavailable.

Commercially Funded Projects for 2016/2017 Renewal

H) Biological Monitoring of River Herring in Virginia, E. Hilton. VIMS \$40,000 from the MFIF. All responding CFAB members were in favor of funding the project (five members).

Mr. O'Reilly explained staff supported both advisory boards on funding recommendations, with the exception of project C, Fort Monroe Finger Pier Renovations. The project has been thoroughly reviewed by the RFAB at three public meetings (including a public hearing) and two work sessions.

Associate Member Neill moved to approve the projects, as recommended and to approve the Fort Monroe pier project. Associate Member Erskine seconded the motion. The motion carried, 8-0-1. Chair abstained.

There being no further business, the meeting was adjourned at approximately 6:30 p.m. The next regular Commission meeting will be Tuesday, June 28, 2016.

John M. R. Bull, Commissioner

Katherine Leonard, Recording Secretary