

MINUTES

COMMISSION MEETING

February 27, 2024

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 380 Fenwick Road, Bldg. 96, Fort Monroe, Virginia with the following present:

Jamie L. Green	Commissioner
John Cosgrove	Deputy Commissioner
Lynn Kellum	
William Bransom	
James E. Minor	
Jeremy Headley	Associate Members
A.J. Erskine	
Heather Lusk	
Patrick Hand	
Jeanette Edwards	
Ross Phillips	Assistant Attorney General
Lisa Pyle	Recording Secretary
Todd Sperling	Bs. Systems Manager
Jennifer Farmer	Regulatory Coordinator
Herbert Bell	Deputy Chief, Law Enforcement
Zach Widgeon	Director of Communication
Randy Owen	Chief, Habitat Management
Justin Worrell	Deputy Chief, Habitat Management
Jeff Madden	Environmental Engineer, Sr.
Tiffany Birge	Environmental Engineer, Sr.
Lauren Chartrand	Environmental Engineer, Sr.
Kirsten Travis	Environmental Engineer, Sr.
Khadijah Payne	Environmental Engineer, Sr.
Claire Gorman	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Brad Reams	Habitat Compliance Officer

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Adam Kenyon	Chief, Shellfish Management
Andrew Button	Deputy Chief, Shellfish Management
Pat Geer	Chief, Fisheries Mgmt.
Joe Grist	Deputy Chief, Fisheries Mgmt.
Shanna Madsen	Deputy Chief, Fisheries Mgmt.
Alicia Nelson	Natural Resource Manager
Joshua McGilly	Fisheries Mgmt. Specialist
Somers Smott	Fisheries Mgmt. Specialist
Brooke Lowman	Fisheries Mgmt. Specialist
Alexa Galvan	Fisheries Mgmt. Specialist
Jill Ramsey	Fisheries Mgmt. Specialist
Kylie Muir	Fisheries Mgmt. Specialist
Lewis Gillingham	Director, SWFT

Virginia Institute of Marine Science (VIMS):

Lyle Varnell	Mark Luckenbach	Emily Hein
Alex Sabo		

Others present:

Ryan Croxton	Melanie Bailey	Rich Calvert
Trish Cronin	Laura Morgan	Peyton Mowry
George Mapp	Rebecca Francese	James Kelley
George Bains	Kim Huskey	Doreen Kopacz
Mike Hutt	David Obrien	James Greene
Lynn Jenkins	Emma Cummings	and others.

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APPROVAL OF AGENDA. – Commissioner Jamie Green asked if there were any changes from the Board members or staff.

Associate Member Erskine moved to approve the agenda. Associate Member Minor seconded the motion. The motion carried, 8-0.

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MINUTES: Commissioner Green asked if there were any changes or corrections to be made to the January 23, 2024, Commission Meeting minutes.

Associate Member Erskine moved to approve the minutes as presented. Associate Member Bransom seconded the motion. The motion carried, 7-0-1. Associate Member Minor abstained.

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Commissioner Green 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 \$500,000.00 with no objections and with staff recommendation for approval).

Randy Owen, Chief, Habitat Management, reviewed the Page 2 item 2H for the Associate Members. Mr. Owen’s comments are a part of the verbatim record.

2A. LUCK STONE, #23-2689 requests authorization to construct one (1) replacement turning dolphin consisting of one (1), 48-inch hollow steel center pile surrounded by approximately 30, 12-inch timber pilings adjacent to 4608 Bainbridge Blvd, situated along the Southern Branch of the Elizabeth River in Chesapeake.

Fees:	\$ 600.00
Royalties:	\$ 500.00
Total:	\$ 1100.00

- 2B. SUFFOLK DEPARTMENT OF PUBLIC WORKS, #23-2003** requests authorization to replace Nansemond Parkway Bridge with a clear span 55-foot by 39-foot bridge, including temporary and new crossings of aerial water and sewer main lines over a 28-foot section of Burnetts Mill Creek in the City of Suffolk.

Fees:	\$ 600.00
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- 2C. W. F. MAGANN CORPORATION, #22-0093** requests authorization to mechanically dredge 42,525 cubic yards of subaqueous bottom to a depth of-14 feet mean low water, with future maintenance dredging on an as-needed basis, adjacent to 3106 West Norfolk Road situated along the Western Branch Elizabeth River in the City of Portsmouth. Dredge spoils will be barged offsite and transferred to the Craney Island Dredged Material Management Area in Portsmouth, the Dominion disposal facility in Chesapeake, or Shirley Plantation in Charles City County. Staff recommends approval of the project with the standard dredging special conditions and a royalty totaling \$25,515.00 for the removal of 42,525 cubic yards at a rate of \$0.60 per cubic yard.

Fees:	\$ 600.00
Royalties: Dredge 42,252cy @ \$0.60	\$ 25515.00
Total:	\$ 26115.00

- 2D. METRO MACHINE CORP., #23-2768** requests authorization to install a new 24-foot by 24-foot concrete mooring dolphin, a new 18-foot by 20-foot concrete mooring dolphin, two (2) new 24-foot by 24-foot concrete tower crane pads, and to modify three (3) existing concrete breasting fenders adjacent to the existing concrete pier serving 2 Harper Avenue, situated along the Southern Branch Elizabeth River in the City of Portsmouth.

Fees:	\$ 600.00
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- 2E. HAMPTON LANDING LTD., #24-0142** requests authorization to replace existing fixed docks with floating docks: Dock A will extend 380 feet channelward from the existing bulkhead, Dock B will extend 355 feet channelward from the existing bulkhead, and eight (8) slips will be removed from Dock B to accommodate larger vessels, serving 16205 Neabsco Road, situated along Neabsco Creek in Prince William County.
- 2F. DONALD PADGETT, #23-2301** requests authorization to install 71 linear feet of vinyl bulkhead at property on Villa Road within the Town of Claremont (Tax Map #3B-5-5), situated along the James River in Surry County. The project requires a VMRC beach permit.
- 2G. CITY OF HAMPTON, #23-0857** requests authorization to maintenance dredge a maximum of 26,806 cubic yards of state-owned submerged lands and new dredging of 3,447 cubic yards of submerged lands to provide maximum depths of minus 5.5 feet below mean low water within the Hampton River and its ancillary channels in the City of Hampton. A temporary transfer station will be constructed at 1 Club Run Boulevard and spoils will be transported by truck to an approved upland disposal site.
- 2H. METRO MACHINE CORPORATION, #23-2405** requests authorization to construct four (4) new, 22-foot by 22-foot concrete crane pads at the General Dynamics shipyard adjacent to Ligon Street situated along the Southern Branch Elizabeth River in Norfolk.

Fees:	\$ 600.00
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No one spoke in support or opposition of the projects.

The matter was before the Commission for discussion and action.

Associate Member Minor moved to approve the Page 2 items 2H through as presented. Associate Member Bransom seconded the motion. The motion carried 8-0.

3. CONSENT AGENDA ITEMS –There were no consent agenda items.

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4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. – No meeting needed

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5 DISCUSSION: Commission review of applications by the Town of Cape Charles, Town of Chincoteague, City of Newport News, and Gloucester County for grant funding for the removal and disposal of derelict vessels.

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

The Town of Cape Charles requests \$16,910.10 to reimburse for the removal and disposal of an abandoned vessel on the Cape Charles Public Beach.

The Town of Chincoteague requests \$60,000 to remove and dispose of 5 abandoned vessels within the tidal waterways of Chincoteague.

The City of Newport News requests \$192,000 to remove and dispose of 8 abandoned vessels within Deep Creek at Menchville Marina in Newport News.

Gloucester County requests \$35,000 to remove and dispose of 5 abandoned vessels at the Perrin Wharf along Perrin Creek.

All four requests are consistent with the VMRC Abandoned or Derelict Vessel Grant Program Manual. The applications total \$303,910.10 to remove all 19 abandoned or derelict vessels.

No one spoke in support or opposition of the project.

The matter was before the Commission for discussion and action.

Associate Member Erskine made a motion to approve grant funding. Associate Member Edwards seconded the motion. The motion carried, 8-0.

- 6. **JOHN JANNEY, #23-1910** requests authorization to construct an open-sided boathouse addition to an existing statutorily authorized private, noncommercial timber pier, adjacent to the Potomac River at 6062 Potomac Landing Drive in King George County. The project is protested by both adjacent property owners.

Fees:	\$ 100.00
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Jeff Madden, Environmental Engineer, gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. His comments are part of the verbatim record. The two adjacent property owners contested the project, concerned that the structure would impact their viewshed.

Staff is recommending approval of the project as proposed.

Maria Carrasco, representative for the owner, was sworn in and spoke. Her comments are part of the verbatim record. She stated that she thinks the project deserves approval.

No one spoke in support or opposition of the project.

The matter was before the Commission for discussion and action.

Associate Member Erskine made a motion to accept staff recommendations. Associate Member Minor seconded the motion. The motion carried, 8-0.

- 7. **RAPPAHANNOCK RIVER OYSTERS, #23-2548** requests authorization to repair a fire-damaged wharf and rebuild a 1,440 square-foot oyster house on the existing wharf at The Rappahannock Oyster Company facility located on Locklies Creek at 784 Locklies Creek Road in Middlesex County. The project is protested by an adjacent property owner.

Fees:	\$ 300.00
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Kirsten Travis, Environmental Engineer, gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Her comments are part of the verbatim record. One adjacent property owner protested the project, concerned for diminishing of viewshed and continued expansion of the commercial operation.

Staff is recommending approval of the project.

Associate Member Headley asked Ms. Travis if the proposed structure is larger than the previous structure. Ms. Travis responded that it is.

Ryan Croxton, applicant, was sworn in and spoke. His comments are part of the verbatim record. Mr. Croxton remarked that the size of the proposed structure was increased in order to keep board length consistent throughout the building. He also added that the main reason for the property was to be able to comply with Division of Shellfish Safety’s sanitation standards, and that not having overhead coverage may threaten the business.

The matter was before the Commission for discussion and action.

Associate Member Lusk made a motion to approve the project. Associate Member Edwards seconded the motion. The motion carried, 8-0.

- 8. **MATTHEW BOTT, #23-1528** requests authorization to install an open-sided boathouse onto an existing statutorily authorized private pier along Stutts Creek at 62 Shallow Cove Lane in Mathews County. The project is protested by an adjacent property owner.

Fees:	\$ 300.00
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Mike Johnson, Environmental Engineer, gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. His comments are part of the verbatim record. The project is protested by one adjacent property owner, who is concerned the new structure will impact their viewshed.

Staff is recommending approval of the project.

James Kelly, protestant, was sworn in and spoke. His comments are part of the verbatim record.

Mr. Kelly claimed that the original proposed design that he had agreed to was different than the final design, which he does not approve of. He remarked that the dock impacts his view and stated his belief that the parcel of land is restricted, citing local ordinances. Randy Owen was called upon and he stated that he didn’t believe a local ordinance would impact the project, as it is a different governing body. Mr. Owen deferred to council, who concurred.

The matter was before the Commission for discussion and action.

Associate Member Minor made a motion to approve the project. Associate Member Bransom seconded the motion. The motion carried, 8-0.

9. **CONSIDERATION OF CIVIL CHARGES** consideration of Civil Charges to the marine agent, Roger McKinley, and the marine contractor, R&W Marine, for the construction of a rock sill living shoreline project prior to a Commission subaqueous permit being issued. The unauthorized installation occurred at 195 Old Cove Road in Mathews County and identified as VMRC #2021-0944 - Matthew Jenkins.

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

Staff is recommending R&W Marine be assessed \$1,000 for the violation. Staff also recommends the agent be assessed \$3,000 for the violation, as he played an integral and specific role in advising the applicant to proceed with the project. Staff does not feel that the applicant should be assessed civil charges and has issued an after-the-fact permit upon receipt of the required payments.

Laura Morgan, of R&W Marine, was sworn in and spoke. Her comments are part of the verbatim record. Ms. Morgan started that her company was contacted by the original contractor, Earth Resources, to use their equipment for the project. She said that their equipment was too large for their barge, so Earth Resources instead asked if R&W Marine wanted to take over the project. Ms. Morgan stated that she was told the permits were good by both Earth Resources and the homeowner.

Associate Member Erskine asked Ms. Morgan where she got the drawings for the project, to which Ms. Morgan responded that she pulled them from the permit application in VMRC's database.

The matter was before the Commission for discussion and action.

Associate Member Erskine asked Mr. Johnson if Mr. McKinley had contacted staff or paid his past violations. Mr. Johnson responded that he has not paid and that the matter has been taken up by the Attorney General's office. Commissioner Green remarked that it was his belief that Mr. McKinley is filing an appeal.

Associate Member Bransom asked staff if there had been past issues with R&W Marine. Mr. Owen stated that some years ago, R&W Marine was found in violation for a project.

Associate Member Bransom made a motion to accept staff recommendations. Associate Member Hand seconded the motion. The motion carried, 8-0.

10. PUBLIC COMMENT:

Francis Jenkins was sworn in and spoke. Her comments are part of the verbatim record. Ms. Jenkins expressed frustration surrounding the Commission's alleged lack of support of menhaden studies.

Commissioner Green stated that he does not question the integrity of the Commission Members. He also stated that as a body, the Commission does not get involved in legislation.

Associate Member. Headley asked staff about a crab dredging plan. Fisheries Management Chief Pat Geer stated that it is still being worked on, as is consideration of extending the crab pot fishing season and methods to do so.

11. PUBLIC HEARING: To increase regulatory efficiency by reducing redundant regulatory requirements, the Commission proposes to repeal the following chapters pertaining to shellfish:

- Chapter 4VAC20-1200-10 et eq., "Pertaining to the Special Relay Season in the Rappahannock River"
- Chapter 4VAC20-980-10 et seq., "Pertaining to On-shore Loading and Unloading of Shellfish from Condemned Areas"

Andrew Button, Deputy Chief, Shellfish Management, gave the briefing of the information provided in the staff's evaluation. His comments are part of the verbatim record.

Staff recommends repealing the chapters to increase regulatory efficiency by reducing redundant regulatory requirements and doesn't anticipate any negative impacts to industry.

No one spoke in support or opposition of the project.

The matter was before the Commission for discussion and action.

Associate Member Erskine made a motion to approve staff recommendation. Associate Member Minor seconded the motion. The motion carried, 8-0.

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12. **SHELLFISH:** Request for approval of the 2024 Oyster Replenishment and Restoration Plan (ORP) and the Associated Procurements Procedures.

Associate Member Kellum recused herself from Item 12.

Andrew Button, Deputy Chief, Shellfish Management, gave the briefing of the information provided in the staff's evaluation with PowerPoint slides. His comments are part of the verbatim record.

Staff recommends approval of the 2024 Oyster Replenishment Plan (ORP) and the Associated Procurements Procedures.

No one spoke in support or opposition of the project.

The matter was before the Commission for discussion and action.

Associate Member Minor made a motion to approve staff recommendations for the Oyster Replenishment Plan. Associate Member Bransom seconded the motion. The motion carried, 6-0-1. Associate Member Erskine abstained; Associate Member Kellum recused.

Associate Member Minor made a motion to approve staff recommendations for Procurement Procedures. Associate Member Bransom seconded the motion. The motion carried, 6-0-1. Associate Member Erskine abstained; Associate Member Kellum recused.

13. **DISCUSSION:** Commercial Fishing Advisory Board (CFAB) recommendation on funding request from the Marine Fishing Improvement Fund.

Alicia Nelson gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides Her comments are a part of the verbatim record.

Associate Member Edwards asked how students are notified of the program. Ms. Nelson said that they go through the school systems.

No one spoke in support or opposition of the project.

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The matter was before the Commission for discussion and action.

**Associate Member Headley made a motion to approve staff recommendation.
Associate Member Minor seconded the motion. The motion carried, 8-0.**

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There being no further business, the meeting was adjourned at approximately 11:22 a.m.
The next Commission meeting will be Tuesday, March 26, 2024.

Jamie L. Green, Commissioner

Lisa Pyle, Recording Secretary