

MINUTES

COMMISSION MEETING

April 23, 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	
Kelci Block	Assistant Attorney General
Lisa Pyle	Recording Secretary
Todd Sperling	Bs. Systems Manager
Jennifer Farmer	Regulatory Coordinator
Rachael Peabody	Director of Coastal Policy
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.
Kirsten Travis	Environmental Engineer, Sr.
Khadijah Payne	Environmental Engineer, Sr.
Claire Gorman	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.

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Brad Reams

Habitat Compliance Officer

Adam Kenyon

Chief, Shellfish Management

Andrew Button

Deputy Chief, Shellfish Management

Pat Geer

Chief, Fisheries Mgmt.

Shanna Madsen

Deputy Chief, Fisheries Mgmt.

Alicia Nelson

Natural Resource Manager

Ethan Simpson

Biological Sampling Prog. Mgr.

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

Emily Hein

Alex Sabo

Robert Latour

Others present:

Steve Horton

Stephen Calhoon

Lynda Richardson

Shaun Gehan

Peter Himchak

Gwen Gubeli

Andy Cortez

Scott Fisher

David Nobles

Julie Kacmarcik

Christie Medice

David Reed

David Obrien

Taylor Deihl

Olivia Brocklbank

Rebecca Francese

Jackie Shannon

Ross Kellum

Thomas Moore

Jeannene Edwards

Tom Lilly

Mike Ostrander

Matt Neely

Bennie Lippard

R. Pollard

Monica Schenemann

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 Bransom 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 March 26, 2024, Commission Meeting minutes.

Associate Member Erskine moved to approve the minutes as presented. Associate Member Bransom seconded the motion. The motion carried, 5-0-3. Associate Members Headley, Lusk, and 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 items 2A and 2B for the Associate Members. Mr. Owen’s comments are a part of the verbatim record.

2A. KINDER MORGAN, #23-1881 requests authorization to mechanically maintenance dredge approximately 42,000 cubic yards of material, to a previously permitted depth of -37 feet MLLW, from the Kinder Morgan Elizabeth River Terminal in the City of Chesapeake. The dredged material will be either transported in bottom-dump scowls to the Craney Island Rehandling Basin for disposal or to an approved upland site such as Dominion in Chesapeake or Shirley Plantation on the James River.

2B. SUFFOLK DEPARTMENT OF PUBLIC WORKS, #23-2003 requests authorization to install a total of 62 riprap breakwaters with landward sand nourishment and wetlands plantings along the shoreline of the Ragged Island Wildlife Management Area, situated along the James River in Isle of Wight County. Approximately 13,752 cubic yards of Class I and II riprap and 25,500 cubic yards of sand will be installed to create approximately 6,300 linear feet (1.2 miles) of living shoreline to further protect the park's eroding shoreline.

No one spoke in support or opposition of the projects.

The matter was before the Commission for discussion and action.

Associate Member Bransom moved to approve the Page 2 items 2A and 2B as presented. Associate Member Erskine seconded the motion. The motion carried 9-0.

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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** **PETITIONER:** Petitioners Chesapeake Legal Alliance and Southern Maryland Recreational Fishing Organization request the following: "(i) Enact a moratorium in the Bay: set a precautionary moratorium on purse seine landings by the menhaden reduction fleet within the Chesapeake Bay, (ii) require no less than 40% of harvest from federal waters: set a limit of no more than 60% of current purse seine menhaden landings within Virginia waters (approximately 94,000 metric tons), (iii) codify a 1-mile shoreline buffer: establish a permanent 1-nautical mile shoreline buffer along Virginia's shoreline prohibiting the use of menhaden purse seines, (iv) fund and implement a menhaden population study: implement and enhance the Atlantic Menhaden Research proposal to investigate localized depletion and its impacts on the Bay (VIMS, October 1, 2023), (v) establish proper industry oversight: require increased vessel and landings monitoring and reporting to ensure compliance and reduce bycatch and impacts on Bay habitats."

Jennifer Farmer, Regulatory Coordinator, outlined the petition process for the Commissioner and Associate Members. Her comments are a part of the verbatim record.

David Reed, Chesapeake Legal Alliance, gave the briefing of the information provided in the petition, with PowerPoint slides. His comments are part of the verbatim record.

Shanna Madsen, Deputy Chief, Fisheries Management, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Her comments are part of the verbatim record. Ms. Madsen provided an overview of the past and present management and scientific assessment of Atlantic menhaden to provide context. She then presented the petition recommendations and outlined which recommendations were possible via regulatory rulemaking.

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PUBLIC COMMENT ON MENHADEN

Nine members of the public were sworn in and spoke in support of the petition. Their comments are part of the verbatim record.

Six members of the public were sworn in and spoke in opposition to the petition. Their comments are part of the verbatim record.

Robert Latour, of VIMS, spoke as an advisor. His comments are part of the verbatim record. Mr. Latour was critical of Dr. Watts' study, specifically in the linkage of the causal effect of menhaden decline on the osprey population in the Bay.

David Reed offered a rebuttal; his comments are part of the verbatim record.

The matter was before the Commission for discussion and action.

Ms. Lusk acknowledged her frustration and disappointment that there is not enough science available, and that the Commission can do nothing to fund the study.

Associate Member Lusk made a motion to pass petition options 3 and 5 Associate Member Hand seconded the motion.

Associate Member Kellum offered a friendly amendment to remove option 3. Ms. Lusk amended her motion to mirror the MOU.

Ms. Kellum made a substitute motion to deny the petition. Associate Member Headley seconded the motion. The motion carried, 5-3. Associate Members Lusk, Bransom, and Hand opposed.

Associate Member Hand made a motion to have staff re-evaluate the shoreline buffer of 1 nautical mile and to send it to MMAC. Also asked for staff to look at reduced days in the bay. No second, motion died.

Mr. Hand's request does not need a motion and will be put forward to staff.

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6. DISCUSSION: Commission review of applications to the Abandoned or Derelict Vessel Grant Program.

Rachael Peabody, Director of Coastal Policy, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Her comments are part of the verbatim record. Matthews County requested \$1,000 to reimburse for the removal and disposal of an abandoned skiff in Edwards Creek. Northumberland County requested \$15,423.03 to reimburse for the environmental remediation, removal, and disposal of an

abandoned vessel at the Reedville Marina. Middlesex County requested \$100,000 to investigate, remove, and dispose of up to 10 abandoned or derelict vessels within the waterways of the county.

All requests were consistent with the VMRC Abandoned or Derelict Vessel Grant Program Manual. The applications totaled \$116,423.03 to fund the removal of 12 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 Headley made a motion to approve the requested funds. Associate Member Edwards seconded the motion. The motion carried, 7-0. Associate Member Minor was not present.

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- 7. **BRANCH CIVIL, #23-2110** requests authorization to construct a clear span bridge across the Chickahominy River as part of the Fall Line Trail – Northern Section project in Hanover and Henrico Counties. This project is protested by an adjacent property owner.

Tiffany Birge, Environmental Engineer, gave the briefing of staff’s evaluation, with PowerPoint slides. Her comments are part of the verbatim record. After evaluating the merits of the project against the concerns expressed by the protestant, and after considering all factors contained in §28.2-1205 of the Code of Virginia, staff recommends approval of the project as proposed with the special permit condition that the permittee shall execute a transfer of this permit to the Virginia Department of Transportation (VDOT) upon their acceptance of the constructed structure authorized herein.

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 the project. Associate Member Bransom seconded the motion. The motion carried, 8-0.

8. PUBLIC COMMENT

Monica Schenemann was sworn in and spoke. Her comments are part of the verbatim record. Ms. Schenemann spoke on behalf of Mr. Joseph Neale and Mr. Ronald Newsome, asking the Commission to allow the transfer of an Oyster User Fee from Mr. Newsome to Mr. Neale. In 2023, Mr. Neale transferred his license to Mr. Newsome. Mr. Newsome was unable to secure funding for the transaction and does not have the required years of eligibility to transfer the license back to Mr. Neale. Neither party was able to be present at the meeting, but they sent Ms. Schenemann with a signed and notarized transfer form to indicate their agreement.

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

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9. PUBLIC HEARING: Proposal to amend Chapter 4VAC20-950-10 et seq., "Pertaining to Black Sea Bass", to establish the 2024 recreational management measures for this species and to streamline the black sea bass aquaculture process.

Alexa Galvan, Fisheries Management Specialist, gave the briefing of staff's evaluation, with PowerPoint slides. Her comments are part of the verbatim record.

In December 2023, the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission Summer Flounder, Scup, and Black Sea Bass Board granted Virginia approval to conduct a 2024 February recreational fishery on the condition that any additional landings occurring during that season would result in a deduction of fishing days from the regular open season. During the February 2024 recreational black sea bass season, Virginia anglers landed 24,179 pounds of black sea bass. The 2024 regular recreational season will be shortened by eight days to pay back February landings. To streamline the application process, staff is recommending removing permit conditions for black sea bass aquaculture facilities from regulation and moving them to the permit application and the permit issued to approved facilities. This will make it easier for permittees to understand what conditions their facilities are subject to.

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The matter was before the Commission for discussion and action.

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

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There being no further business, the meeting was adjourned at approximately 1:09 p.m.
The next Commission meeting will be Tuesday, May 28, 2024.

Jamie L. Green, Commissioner

Lisa Pyle, Recording Secretary