

# Virginia Marine Resources Commission

## COMMISSION ACTIONS September 27, 2016

**\*\* APPROVAL OF AGENDA. UNANIMOUSLY APPROVED THE AGENDA WITH THE ADDITION OF ITEM 2B [\[audio\]](#)**

1. MINUTES of previous meeting. **UNANIMOUSLY APPROVED AS WRITTEN [\[audio\]](#)**

2. [PERMITS \(Projects over \\$500,000.00 with no objections and with staff recommendation for approval\)](#). **UNANIMOUSLY APPROVED ITEMS 2A AND 2B [\[audio\]](#)**

3. [CONSENT AGENDA ITEMS](#). **UNANIMOUSLY APPROVED ITEM 3A AS RECOMMENDED [\[audio\]](#)**

4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. **NONE [\[audio\]](#)**

5. **ROBIN ORR, #16-1274** Requests authorization to construct 144 linear feet of timber bulkhead, to replace an existing deteriorating bulkhead, and construct 98 square feet of vegetated wetlands along a tributary canal to Drum Point Creek, at the riparian residence of 2706 W. Meadow Drive in the City of Chesapeake. This project requires a VMRC wetlands permit. **UNANIMOUSLY APPROVED AS PROPOSED [\[audio\]](#)**

6. **PUBLIC HEARING: AMENDMENTS TO CHAPTER 4VAC-20-335-10 ET.SEQ., "PERTAINING TO ON BOTTOM SHELLFISH ACTIVITIES"** To establish permit requirements and/or buffer distances from mean low water for the placement of aquaculture structures on oyster planting ground leases within the City of Virginia Beach. **VOTED 7-2 WITH ASSOCIATE COMMISSIONER NEILL AND COMMISSIONER BULL OPPOSED TO MAKE NO CHANGES TO THE REGULATION. THE COMMISSION LATER VOTED UNANIMOUSLY TO LIFT THE MORATORIUM THEY HAD IMPLEMENTED IN JANUARY ON THE LEASING OF OYSTER GROUND IN THE LYNNHAVEN RIVER SYSTEM.** [ [audio A](#) | [audio B](#) | [audio C](#) | [audio D \(addendum\)](#)]

7. **PUBLIC COMMENTS** None [\[audio\]](#)

8. **PRESENTATION** Dr. Jon Hare of NOAA will give a presentation on effects of climate change on distribution of fish stocks. [\[audio\]](#)

9. **OFFENDERS: THE COMMISSION HEARD 5 CASES OF OFFENDERS WITH NATURAL RESOURCE VIOLATIONS.** [\[audio\]](#)

10. **FAILURE TO REPORT** Cases involving failure to report commercial harvests, in accordance with Chapter 4 VAC 20-610-10 et seq., "Pertaining to Commercial Fishing and Mandatory Harvest Reporting." **THE COMMISSION HEARD 1 CASES FOR THE FAILURE TO REPORT COMMERCIAL HARVEST TO THE COMMISSION'S MANDATORY HARVEST REPORTING PROGRAM.** [\[audio\]](#)

**11. PUBLIC HEARING** Amendments to Chapter 4 VAC 20-650-10 et seq., "Establishment of Oyster Sanctuary Areas", to allow oyster harvesters using hand tongs only to cross through sanctuary areas provided they do not have oysters on board. **THE COMMISSION APPROVED UNANIMOUSLY TO ACCEPT STAFF RECOMMENDATION TO AMEND CHAPTER 4VAC20-650-10 ET SEQ., "ESTABLISHMENT OF OYSTER SANCTUARY AREAS", TO MAKE IT UNLAWFUL FOR ANY PERSON TO POSSESS ANY HAND SCRAPE, DREDGE, OR PATENT TONG GEAR THAT COULD BE USED TO HARVEST SHELLFISH ON PUBLIC OR UNASSIGNED OYSTER GROUNDS WITHIN 100 FEET OF ANY OYSTER SANCTUARY AREA, AND SUCH POSSESSION SHOULD BE CONSIDERED AS PRIMA FACIE EVIDENCE OF A VIOLATION OF THE CHAPTER. THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADOPT THE EDITED VERSION OF CHAPTER 4 VAC 20-720-10 ET SEQ. AS AN EMERGENCY AMENDMENT EFFECTIVE OCTOBER 3, 2016 AND APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR A NOVEMBER PUBLIC HEARING.** [\[audio\]](#)

Discussion by Rob O'Reilly in regard to inheritance rights for Commercial fishing licenses [\[audio\]](#)

**12. REQUEST FOR PUBLIC HEARING** Emergency amendments to Chapter 4 VAC 20-620-10 et seq., "Pertaining to Summer Flounder," to modify current commercial summer flounder management measures. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADOPT EMERGENCY AMENDMENTS TO CHAPTER 4 VAC 20-620-10 ET SEQ."PERTAINING TO SUMMER FLOUNDER," TO MODIFY THE LANDING PERIOD AND TRIP LIMIT. ALSO, THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR A NOVEMBER PUBLIC HEARING TO ADOPT THE AMENDMENTS AS A PERMANENT PART OF THE REGULATION.** [\[audio\]](#)

**13. REQUEST FOR PUBLIC HEARING** To modify the commercial smoothound shark filleting at sea provisions established in Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks," to comply with specifications established by the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Coastal Sharks. Compliance is required by January 1, 2017. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR A NOVEMBER 2016 PUBLIC HEARING TO MODIFY CHAPTER 4 VAC 20-490-10 ET SEQ., "PERTAINING TO SHARKS," TO COMPLY WITH ADDENDUM IV TO THE ATLANTIC STATES MARINE FISHERIES COMMISSION'S INTERSTATE FISHERY MANAGEMENT PLAN FOR ATLANTIC COASTAL SHARKS BY JANUARY 1, 2017.** [\[audio\]](#)

**14. REQUEST FOR PUBLIC HEARING** Amendments to Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks," to establish an alternate trip limit for the commercial spiny dogfish fishery. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR A NOVEMBER PUBLIC HEARING TO AMEND CHAPTER 4VAC20-490-10 ET SEQ. "PERTAINING TO SHARKS," TO ALLOW FOR A TOLERANCE TO THE 5,000-POUND COMMERCIAL TRIP LIMIT, AND AN INCREASE IN THE TRIP LIMIT TO 6,000 POUNDS, IF BY FEBRUARY 15, 2017 LANDINGS IN VIRGINIA ARE LESS THAN 80% OF THE 2016-17 QUOTA.** [\[audio\]](#)

**15. REQUEST FOR PUBLIC HEARING** Proposed amendments to Chapter 4 VAC 20-252-10 et seq., "Pertaining to the Taking of Striped Bass" to streamline buyer reporting requirements. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR A PUBLIC HEARING ON NOVEMBER 1, 2016, TO AMEND CHAPTER 4 VAC 20-252-10 ET SEQ., "PERTAINING TO THE TAKING OF STRIPED BASS," TO STREAMLINE BUYER REPORTING REQUIREMENTS.** [\[audio\]](#)

**16. RECOMMENDATION** From the Recreational Fishing Advisory Board on funding for meeting expenses and travel. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO SUPPORT FUNDING RECOMMENDATIONS FROM THE RFAB, FOR EXPENDITURES TOTALING \$2,000 FROM THE VSRFDF, FOR MEETING AND TRAVEL EXPENSES.** [\[audio\]](#)

**[PAGE 2 ITEMS](#)** [\[audio\]](#)

**A. CITY OF ROANOKE, #15-0486** Requests authorization to construct two (2) 16-foot wide prefabricated pedestrian bridges across the Roanoke River as part of the Bridge the Gap Greenway Phase II segment of the Roanoke River Greenway system, with the first bridge to be constructed in the vicinity of Aerial Way Drive and landing at the Norfolk Southern Materials Yard, and the second bridge originating from the Materials Yard and landing on the south side adjacent to flood reduction bench cuts in the City of Roanoke. **UNANIMOUSLY APPROVED THE PROJECT AS PROPOSED**

**B. VIRGINIA ELECTRIC AND POWER COMPANY, #15-1336** Requests authorization to construct five (5) 230kV electric transmission lattice towers and to suspend two (2) 230kV circuits across a 5,900 linear foot section of the Nansemond River, at the existing Line 223/226 river crossing, approximately one mile upstream of the Route 17/Mills E. Godwin Bridge in the City of Suffolk. The existing towers and lines will be removed upon completion of the project. Staff recommends approval with permit conditions to include a Time of Year Restriction for instream work from February 15 through June 30 of any year to protect anadromous fish species, the use of bubble curtains during all pile driving activities, the establishment of buffer zones during construction activities to protect five potentially significant submerged cultural resources and a royalty of \$59,458.00 for the encroachment of five (5) tower structures and two (2) electric circuits over 5,900 linear feet of State-owned submerged land. **UNANIMOUSLY APPROVED THE PROJECT WITH A TIME OF YEAR RESTRICTION FOR INSTREAM WORK FROM FEBRUARY 15 THROUGH JUNE 30 OF ANY YEAR TO PROTECT ANADROMOUS FISH SPECIES, THE USE OF BUBBLE CURTAINS DURING ALL PILE DRIVING ACTIVITIES, THE ESTABLISHMENT OF BUFFER ZONES DURING CONSTRUCTION ACTIVITIES TO PROTECT FIVE POTENTIALLY SIGNIFICANT SUBMERGED CULTURAL RESOURCES AND A ROYALTY OF \$59,458.00 FOR THE ENCROACHMENT OF FIVE (5) TOWER STRUCTURES AND TWO (2) ELECTRIC CIRCUITS OVER 5,900 LINEAR FEET OF STATE-OWNED SUBMERGED LAND.**

**[PAGE 3 ITEMS](#)** [\[audio\]](#)

**A. CORMAN MARINE CONSTRUCTION, INC., #16-1206** Requests authorization to retain six (6) temporary mooring buoys recently installed in the York River, southeast of Gaines Point in Gloucester County, to facilitate the staging of barges and pipe during the construction of the new HRSD York River Treatment Plant Outfall and Diffuser. The applicant has agreed to pay a civil charge of \$6,000.00 in lieu of further enforcement action. Staff recommends approval contingent on the removal of all buoys upon completion of the project, acceptance of the aforementioned civil charge and an annual encroachment royalty of \$300.00, assessed at a rate of 1/10th the normal rate of \$500.00 per commercial buoy. **UNANIMOUSLY APPROVED CONTINGENT ON THE PAYMENT OF A CIVIL CHARGE OF \$6000 IN LIEU OF FURTHER ENFORCEMENT ACTION AND REMOVAL OF ALL BUOYS UPON COMPLETION OF THE PROJECT, ACCEPTANCE OF THE AFOREMENTIONED CIVIL CHARGE AND AN ANNUAL ENCROACHMENT ROYALTY OF \$300.00, ASSESSED AT A RATE OF 1/10TH THE NORMAL RATE OF \$500.00 PER COMMERCIAL BUOY.**

