

MINUTES

Special Commission Meeting

**February 10, 2004
Newport News, VA**

The meeting of the Marine Resources Commission was held with the following present:

William A. Pruitt)		Commissioner
Chad Ballard)		
Gordon M. Birkett)		
Ernest N. Bowden, Jr.)		
S. Lake Cowart)		Associate Members
Russell Garrison)		
J. T. Holland)		
Cynthia Jones)		
F. Wayne McLeskey)		
 Carl Josephson		 Assistant Attorney General
Colonel Steve Bowman		Acting Deputy Commissioner
Wilford Kale		Senior Staff Advisor
Katherine Leonard		Recording Secretary
Andy McNeil		Programmer Analyst Sr.
 Jane McCroskey		 Chief, Admin/Finance Div.
 Lt. Col. Lewis Jones		 Deputy Chief-Law Enforcement
Bob Grabb		Chief, Habitat Management Div.
Tony Watkinson		Deputy Chief, Habitat Mgt. Div.
Chip Neikirk		Environmental Engineer, Sr.

Virginia Institute of Marine Science (VIMS)

Lyle Varnell
Roger Mann
John Onley
Carl Hershner
Bob Orth

Other present included:

Ann Jennings	David Bailey	Jim Brazier
Kelly Place	Fred Carroll	Madeline McMellan

and others

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Commissioner Pruitt called the meeting to order at 3:07 p.m. with all Associate Members present.

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Commissioner Pruitt explained that this meeting had been called in accordance with Section 28.2-102(E) for the purpose of discussing legal matters with VMRC counsel regarding the King William Reservoir Project.

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CLOSED SESSION:

Associate Member Ballard moved that the meeting be recessed and the Commission immediately reconvene in closed meeting for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, or other specific legal matters requiring legal advice by counsel as permitted by Subsection (A), Paragraph (7) of § 2.2-3711 of the Code of Virginia, pertaining to:

A discussion pertaining to the King William Reservoir project with the VMRC legal counsel.

The motion was seconded by Associate Member Jones. The motion carried, 8-0.

Commissioner Pruitt asked that appropriate VMRC and VIMS staff members participate in the closed session.

Associate Member Ballard moved for the following:

**CERTIFICATION OF CLOSED MEETING
OF THE VIRGINIA MARINE RESOURCES COMMISSION**

WHEREAS, the Commission has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712.D of the Code of Virginia requires a certification by this Commission that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, the Commission hereby certifies that, to the best of each member's knowledge,

- (i) only public business matters lawfully exempted from open meeting requirements under Virginia law, and
- (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting by the Commission.

Associate Member McLeskey seconded the motion. Commissioner Pruitt held a Roll Call vote:

AYES: Ballard, Birkett, Bowden, Cowart, Garrison, Holland, Jones, McLeskey, and Pruitt

NAYS: None

ABSENT DURING VOTE: None

ABSENT DURING ALL OR PART OF CLOSED MEETING: None

The motion carried, 9-0.

**Recording Secretary
Virginia Marine Resources Commission**

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Commissioner Pruitt explained that the Commission would recess the meeting while counsel talks with the City of Newport News' attorneys by telephone. He said that when counsel returned, the Commission would reconvene the meeting and go back into closed session.

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CLOSED SESSION:

Associate Member Ballard moved that the meeting be recessed and the Commission immediately reconvene in closed meeting for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, or other specific legal matters requiring legal advice by counsel as permitted by Subsection (A), Paragraph (7) of § 2.2-3711 of the Code of Virginia, pertaining to:

Continue the discussion pertaining to the King William Reservoir Project with the VMRC legal counsel.

The motion was seconded by Associate Member Jones. The motion carried, 8-0.

Associate Member Ballard moved for the following:

**CERTIFICATION OF CLOSED MEETING
OF THE VIRGINIA MARINE RESOURCES COMMISSION**

WHEREAS, the Commission has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712.D of the Code of Virginia requires a certification by this Commission that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, the Commission hereby certifies that, to the best of each member's knowledge,

- (i) only public business matters lawfully exempted from open meeting requirements under Virginia law, and
- (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting by the Commission.

Associate Member Cowart seconded the motion. Commissioner Pruitt held a Roll Call vote:

AYES: Ballard, Birkett, Bowden, Cowart, Garrison, Holland, Jones, McLeskey, and Pruitt

NAYS: None

ABSENT DURING VOTE: None

ABSENT DURING ALL OR PART OF CLOSED MEETING: None

The motion carried, 9-0.

**Recording Secretary
Virginia Marine Resources Commission**

At the conclusion of the meeting, and by way of explanation to the public, Commissioner Pruitt stated, "...the Commission has entertained this afternoon and this evening a series of proposals from the City of Newport News involving the ongoing litigation between the

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City and the Virginia Marine Resources Commission regarding the King William Reservoir. Our legal counsel presented the City's ideas and the Commission members discussed them, as well as, counter considerations. These discussions are at a delicate stage and will continue. We are hopeful that some resolution can be achieved by the time the Commission holds its next regularly scheduled meeting on February 24th. At that time, the Commission again will meet in closed session to hear from our legal counsel and hopefully to finalize a process of action".

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There was no further business, the meeting adjourned at approximately 6:35 p.m. The next regular meeting will be held Tuesday, February 24, 2004.

William A. Pruitt, Commissioner

Katherine Leonard, Recording Secretary