

MINUTES

COMMISSION MEETING

August 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
Patrick Hand	
Lynn Kellum	
A.J. Erskine	
William Bransom	
Jeremy Headley	Associate Members
Jeanette Edwards	
Thomas Preston	
Preston White	
Kelci Block	Assistant Attorney General Via phone
Jamie Hogge	Recording Secretary
Rachael Peabody	Director of Environmental Policy
Gerald Pitt	1 st . Sgt., Marine Police
Pat Geer	Chief, Fisheries Management
Randy Owen	Chief, Habitat Management
Adam Kenyon	Chief, Shellfish Management

Virginia Institute of Marine Science (VIMS):

Lyle Varnell	Alex Sabo
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Others present:

Bob Simon	Tommy Kellum	Andrew Larkin
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Commission Meeting

Rebecca Francese	George Mapp	Mark Hiltke
Bill Pruitt	Ronald Owens	Melissa Southworth
Roger Mann	Darryl Hurley	Gavin Sayers
Lee Diehl	J. C. Hudgins	Ed Davis
Dave Pryor	Anthony Hogge	Rich Calvert
Jackie Shannon	Julie Hedrick	Kim Huskey
Tony Edwards	Matt Hull	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 Headley moved to approve the agenda presented. 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 July 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 White 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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Commissioner Green explained that Senator DeSteph was unable to attend the meeting, but he entered a proclamation during the last senate session, and he asked that we execute it on his behalf.

Ronald Owens, on behalf of Senator DeSteph, presented Senate Joint Resolution Number 210, to William A, Pruitt, former Commissioner of Virginia Marine Resources

Commission, commending him as he served the Commonwealth with unwavering commitment and dedication. His comments are a part of the verbatim record.

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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 through 2H for the Associate Members. Mr. Owen’s comments are a part of the verbatim record.

- 2A. **DOCKSIDE CONDOMINIUM OWNERS ASSOCIATION, #24-1044** Requests authorization to replace three (3) condominium piers and associated slips for a total of 82 slips: Pier A will be an 8-foot wide by 114-foot long mainstem with an 8-foot wide by 194-foot long L-head with nine (9) finger piers and 21 boat slips; Pier B will be an 8-foot wide by 123-foot long mainstem pier with an 8-foot by 206-foot T-head, a 12-foot by 50-foot floating dock, fifteen (15) finger piers and 30 boat slips; Pier D will be an 8-foot wide by 104-foot long mainstem pier with an 8-foot by 208-foot T-head, sixteen (16) finger piers, and 31 boat slips - situated along Sarah Creek at the terminus of Sunset Drive in Gloucester County. Staff recommends approval of the project with a royalty of \$51,192.00 for the new encroachment of 34,128 square feet at the rate of \$1.50 per square foot. The project requires a VMRC Subaqueous Permit.
- 2B. **MICHAEL ROSEMOND, #24-1278** Requests authorization to remove two (2) existing failed timber groins and two (2) failed bulkheads and construct two (2) 75-foot long low profile groins, an 84-foot long ReadyReef sill structure with a row of Envirolok Bags landward of the sill, place clean sand backfill landward of the proposed sill, place a 30-foot by 84-foot Flexamat structure over the sand fill and plant native wetland vegetation in the Flexamat media along the Rappahannock River at 149 Pops Lane in Essex County. The project requires a VMRC Subaqueous and Wetlands Permit.
- 2C. **BUCKEYE TERMINALS, LLC, #24-1542** Requests authorization to construct four (4) riprap sills with associated sand backfill and planting creating a total of 997 linear feet of living shoreline at property 4030 Buell Street along the Southern Branch of the Elizabeth River in Chesapeake. This project requires a VMRC Subaqueous and Wetlands permit.

- 2D. TEOFILO RAMIREZ, #24-0994** Requests authorization to construct two (2) stone breakwaters, totaling 290 linear feet, reconstruct an existing 150-foot breakwater, and add sand nourishment adjacent to property serving 1101 Bay Tree Beach Road situated along the York River in York County. The project requires a VMRC Subaqueous Permit.
- 2E. MCALLISTER TOWING OF VIRGINIA, #23-2008** Requests authorization to replace 175 linear feet of an existing deteriorated bulkhead, extend an existing revetment by 32 linear feet, construct an 80-foot long concrete wharf with a 155-foot by 20-foot T-head, install 90 linear feet of new timber fenders along an existing concrete platform, install four (4) new timber dolphins, install a series of pin barges for mooring, construct a new 57-foot timber approach pier with a new 48-foot timber pin barge pier and install three (3) stone sills with sand backfill and native wetland plantings for the creation of a living shoreline adjacent to commercial property located at 902 Southampton Avenue situated along the Elizabeth River in Norfolk. All derelict structures within the vicinity of the subject property, below mean low water, will be removed. Pursuant to §28.2-1206(B) of the Code of Virginia, this proposal is exempt from rent and royalties. The project requires a VMRC Subaqueous Permit.
- 2F. NATIONAL PARK SERVICE, #24-1179** Requests authorization to increase the height and base of six (6) existing rock sills situated at the southern end of the Dyke Marsh Wildlife Preserve in the Potomac River adjacent to the George Washington Memorial Highway in Fairfax County. The rock sills were originally approved by the Commission under VMRC #17-0921, Phase I. The project requires a VMRC Subaqueous Permit.
- 2G. PERDUE AGRIBUSINESS GRAIN LLC, #24-1140** Requests authorization to construct a new 132-foot long steel sheetpile bulkhead with backfill and a concrete cap along the Hoskins Creek shoreline at 1000 Granary Road in Essex County. The applicant has agreed to purchase wetlands credits from the Virginia Aquatic Trust Fund to offset the tidal vegetated wetland loss of 240 square feet. The project requires a VMRC Wetlands Permit.
- 2H. HUNTINGTON INGALLS, INC, NEWPORT NEWS SHIPBUILDING, #24-1287** Requests authorization to construct five (5) berthing fenders along Pier 6 and to modify the existing fender system and components to support production

operations at their facility on the James River in the City of Newport News. The project requires a VMRC subaqueous permit.

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 through 2H as presented. Associate Member Edwards seconded the motion. The motion carried, 8-0.

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3. CONSENT AGENDA ITEMS

3A. JOSHUA WALTERS, VMRC #24-0040 Requests after-the-fact authorization to retain a 624-square-foot elevated observation deck platform serving 3017 Mansfield Lane situated along Blackwater Creek in the City of Virginia Beach. Staff recommends approval with triple permit fees of \$900.00, which the applicant has agreed to pay, and a civil charge of \$1,000.00, which the contractor has agreed to pay. The project requires a VMRC Subaqueous Permit.

Randy Owen, Chief, Habitat Management, reviewed the Page 3 item for the Associate Members. Mr. Owen’s comments are a part of the verbatim record.

Robert Simon, agent for the applicant was sworn in. His comments are a part of the verbatim record.

Mr. Simon accepted the civil charges against him

Mr. Simon also stated that the homeowner agreed to pay the triple permit fees and the civil charge.

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 3 item as presented. Associate Member Hand seconded the motion. The motion carried, 8-0.

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

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5. LICENSE STATUS REVIEW

Adam Kenyon, Chief, Shellfish Mgmt., gave the briefing of the information provided in the staff’s evaluation for the three (3) License Status Review individuals, with PowerPoint slides. Mr. Kenyon’s comments are a part of the verbatim record.

Anthony Hogge

Anthony Hogge was present and sworn in. His comments are a part of the verbatim record.

Mr. Hogge stated that it was a small area, and he is guilty as he could be.

Associate Member Bransom made a motion to revoke all licenses and privileges for 5 years from the date of conviction. Associate Member Preston seconded the motion. The motion carried, 8-0.

Raymond Jenkins Jr.

Raymond Jenkins Jr. was present and sworn in. His comments are a part of the verbatim record.

Col. Matt Rogers, Chief of Law Enforcement, presented more background of the violations.

Associate Member Bransom made a substitute motion to revoke all licenses and privileges for 2 years from the date of conviction followed by 3-year probation.

Associate Member Edwards seconded the motion. The motion failed, 3-5. Associate Members Hand, Kellum, Erskine, Bransom and White voted no.

Associate Member Bransom made a motion to revoke all licenses and privileges for 3 years from the date of conviction followed by 2-year probation. Associate Member Erskine seconded the motion. The motion carried, 6-2. Associate Members Hand and White voted no.

Dean Rhea

Dean Rhea was not present, and this was presented to the Commission in his absence.

Associate Member Bransom made a motion to revoke all licenses and privileges for 3 years from the date of conviction followed by 2-year probation. Associate Member Preston seconded the motion. The motion carried, 6-2. Associate Members Hand and White voted no.

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6. PUBLIC HEARING Proposal to amend Chapter 4VAC20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest" to establish the 2024-2025 areas of public harvest, public oyster harvest seasons, and oyster resource conservation measures.

Adam Kenyon, Chief, Shellfish Mgmt., gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Kenyon's comments are a part of the verbatim record.

Roger Mann, VIMS representative, was sworn in and spoke in support of the proposed public oyster harvest seasons. His comments are a part of the verbatim record.

J. C. Hudgins was sworn in and spoke in support of the proposed public oyster harvest seasons. His comments are a part of the verbatim record.

Jackie Shannon was sworn in and spoke in support of the proposed public oyster harvest seasons. Her comments are a part of the verbatim record.

Andrew Larkin, NOAA / Chesapeake Bay office, was sworn in and spoke in support of the proposed public oyster harvest seasons. His comments are a part of the verbatim record.

Tommy Kellum was sworn in and spoke in support of the proposed public oyster harvest seasons. His comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Bransom made a motion to adopt the 2024-2025 public oyster harvest seasons, areas, and gears as recommended by the Shellfish Management Advisory Committee with the exception of only opening Burtons Point for HS and Palaces Bar for HT in the Piankatank River as well as adopting an online reporting system for oyster seed harvest and the ability to harvest both clean cull and seed oysters within the same day. Associate Member White seconded the motion. The motion carried, 8-0.

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7. PUBLIC COMMENT:

Tommy Kellum recognized the retirement of Debra Jenkins. His comments are a part of the verbatim record.

William Pruitt recognized the retirement of Debra Jenkins. His comments are a part of the verbatim record.

Darryl Hurley was sworn in and spoke. His statement was part of the verbatim record.

Mr. Hurley spoke on behalf of obtaining his private ground leases back after not receiving the payment notices nor VMRC not receiving the payment.

According to Counsel Block, the Commission did not have authority to override the Code of Virginia which states the guidelines for the lease payment schedule. Based on this authority, the Commission did not make a motion on the request to re-instate the lease. Their comments are a part of the verbatim record.

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- 8. PUBLIC HEARING** Proposal to amend Chapter 4VAC20-490-10 et seq., "Pertaining to Sharks" to reclassify the oceanic whitetip shark from the commercially and recreationally permitted shark list to the commercially and recreationally prohibited shark list.

Pat Geer, Chief, Fisheries Mgmt., gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Geer's comments are a part of the verbatim record.

No one spoke in support or opposition of the funding request.

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.

- 9. DISCUSSION** Commercial Fishing Advisory Board recommendation on funding request from the Marine Fishing Improvement Fund.

Pat Geer, Chief, Fisheries Mgmt., gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Geer's comments are a part of the verbatim record.

No one spoke in support or opposition of the funding request.

The matter was before the Commission for discussion and action.

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

The Commissioner notified the Associate Commissioners, staff and the public of the future dates for the Commission Meeting beginning in October. The October meeting will be held on Monday, October 28, 2024, the November and December meeting will be merged and held on Tuesday, December 3, 2024.

Commission Meeting

**19253
August 27, 2024**

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There being no further business, the meeting is adjourned at 12:06 p.m. The next Commission meeting will be meeting on Tuesday, September 24, 2024.

Jamie L. Green, Commissioner

Jamie Hogge, Recording Secretary