

MINUTES

Commission Meeting

March 27, 2018

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 2600 Washington Avenue, Newport News, Virginia with the following present:

Steven G. Bowman	Commissioner
Chad Ballard	
Christina Everett	
Heather Lusk	Associate Members
James Minor	
Ken Neill, III	
Wayne France	
Kelci Block	Assistant Attorney General
Linda Hancock	Dir., Human Resources
Jamie Hogge	Recording Secretary
Dave Lego	Bs. Systems Specialist
Robert O'Reilly	Chief, Fisheries Mgmt.
Andrew Button	Head, Conservation/Replenishment
Stephanie Iverson	Fisheries Mgmt. Manager, Sr.
Jill Ramsey	Fisheries Mgmt. Specialist
Ryan Jiorle	Fisheries Mgmt. Specialist
Alex Aspinwall	Fisheries Mgmt. Specialist
Adam Kenyon	Fisheries Mgmt. Specialist
Alicia Nelson	Coordinator, RFAB/CFAB
Lewis Gillingham	Director, SWFT
Sydney Alhale	Fisheries Mgmt. Specialist
Sara Blachman	Fisheries Mgmt. Specialist
Anna-Mia Christmas	Fisheries Mgmt. Specialist
Jennifer Farmer	Regulatory Coordinator
Chris Davis	Fisheries Mgmt. Specialist
Allison Norris	Fisheries Mgmt. Specialist
John Cadena	Fisheries Mgmt. Specialist

Commission Meeting

**18041
March 27, 2018**

Rick Lauderman
Warner Rhodes
Stephan Bennis
John Collamore
Austin Brown
Case Springfield
Brandon Price

Chief, Law Enforcement
Deputy Chief, Law Enforcement
Lieutenant, Marine Police Officer
Marine Police Officer
Marine Police Officer
Marine Police Officer
Marine Police Officer

Tony Watkinson
Randy Owen
Jeff Madden
Justin Worrell
Jay Woodward
Mark Eversole
Mike Johnson
Rachael Peabody
Daniel Faggert

Chief, Habitat Management
Deputy Chief, Habitat Management
Environmental Engineer, Sr.
Surveyor, Engineering/Surveying

Virginia Institute of Marine Science (VIMS):

Lyle Varnell
Ken Moore
Bob Orth

Mark Luckenbach
Scott Hardaway
Troy Tuckey

Emily Hein
Jim Perry

Others present:

Russ Perkinson
Gary Cosby
Doug Jacobs
Jessica Strather
Mike Destering
Jared Webb
Neville Reynolds
Davis Itril
Chris Ludford
Larry Smith
Harry Kiriaka
Butch Eason
Will Bransome
Nathan Henry
Zack Hoffman
Wes Blow and others.

Tom Modostay
Ed Doyle
James Walsh
Glenda Booth
Dan Adams
Jennifer Johnson
Chris Moore
Fred Mills
Jerry Hughes
Julius Ashburn
Thomas Crowell Sr.
Jessie Langby
Mike Hubert
Bill Garham
Mike Litzciniel

Larry Zaragoza
Jeff Flood
Mike Revrec
Katherine Wychulis
David O'Brien
Jim Lang
Alberto Ramos
Chris Goldsmith
David Smith
Michael Crowell
Franco Nigra
Shawn Charnock
Stan Sutliff
Travis Kemp
Mike Avery

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Commissioner Bowman called the meeting to order at approximately 9:33 a.m. Associate Members Tankard and Zydron were absent.

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At the request of Commissioner Bowman, Associate Member France said the invocation and Kelci Block, Assistant Attorney General, led the pledge.

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APPROVAL OF AGENDA: Commissioner Bowman asked if there were any changes from the Board members or staff. There were no changes.

Associate Member France moved to approve the agenda. Associate Member Minor seconded the motion. The motion carried, 7-0. Chair voted yes.

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MINUTES: Commissioner Bowman asked if there were any changes or corrections to be made to the February 27, 2018 Commission meeting minutes. There were no changes.

MINUTES: Commissioner Bowman asked if there were any changes or corrections to be made to the March 16, 2018 Commission meeting minutes. There were no changes.

Associate Member Ballard moved to approve the minutes, as presented. Associate Member Neill seconded the motion. Commissioner Bowman abstained. The motion carried, 6-0-1.

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Commissioner Bowman 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 with no objections and with staff recommendation for approval.):

Tony Watkinson, Chief, Habitat Management, reviewed the 4 Page Two items, A, B, C and D for the Board members. Mr. Watkinson’s comments are a part of the verbatim record.

There were no public comments.

Associated Member Ballard moved to approve the page two items as presented. Associate Member France seconded the motion. The motion carried, 7-0. Chair voted yes.

- 2A. **VIRGINIA BEACH PUBLIC WORKS, #16-0516**, requests authorization to modify the existing Chesapeake Colony Special Service District dredging permit to include the additional dredging of 441 cubic yards of State-owned submerged bottomlands to achieve maximum depths of minus four and a half (-4.5) feet mean low water adjacent to 2804 West Point Court and 633 Chesapeake Trail in the Chesapeake Colony subdivision, situated along Pinetree Branch in Virginia Beach. All existing permit conditions will remain in effect.

Royalties	EXEMPT
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- 2B. **VIRGINIA ELECTRIC AND POWER COMPANY, #18-0019**, requests authorization to excavate approximately 285 square feet of subaqueous bottom and install temporary timber mats, sheetpile cofferdams and wooden bridges to facilitate repairs to the foundations of five transmission line support structures (Lines 85 & 2016, structures 69-73) located approximately 500 feet upstream (northwest) of the Eltham Bridge crossing of the Eltham Marsh Thorofare and the Pamunkey River in New Kent County. Recommend approval contingent on adherence to our standard instream permit conditions, a February 15 - June 30 instream work time-of-year restriction (Pamunkey River only) to protect anadromous fishes and removal of all temporary mats, bridges and sheetpile cofferdams upon completion of the project.

Permit	\$ 100.00
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- 2C. **NORFOLK SOUTHERN RAILWAY COMPANY, #15-1667**, requests authorization to revise a previously approved permit to include an additional 285 linear feet of sheet pile bulkhead and to fill approximately 10,807 square feet of submerged lands in an effort to aid in the stabilization of the Norfolk Southern Pier 6 property along the Elizabeth River at the Norfolk Southern Lambert's Point Dock.

Staff recommends approval with the condition that the permittee agrees to fund or construct an oyster reef expansion project or new reef project in the Elizabeth River Watershed. The funding amount or construction funding shall be no less than \$54,034.00, which is equal to

\$5.00 per square foot of area authorized to be filled by this permit modification. The reef expansion project or new reef shall be permitted by the Commission and completed within three (3) years of the date of this modification approval. Should the permittee be unable to identify or design a reef project the permittee shall request reconsideration of an alternative mitigation plan for the authorized fill area prior to the three-year completion period.

Royalties	EXEMPT
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2D. HUNTINGTON INGALLS INCORPORATED-NEWPORT NEWS SHIPYARD, #10-1518, requests authorization to modify an existing permit and hydraulically dredge an additional 868,259 cubic yards of State-owned subaqueous bottom to attain depths of -50 feet mean low water for aircraft carrier navigational zones, -40 feet mean low water for submarine navigational zones and -30 feet for all other zones at their shipbuilding facility located a 4101 Washington Avenue in the City of Newport News. All proposed dredge material will be transported to Craney Island Dredged Material Management Area for disposal. Staff recommends approval of the modification with a royalty in the amount of \$390,716.55 for the new dredging of 868,259 cubic yards of State-owned subaqueous bottom at a rate of \$0.45 per cubic yard.

Royalty Fees (new dredging 868,259 cubic yards @ \$0.45/cubic yard)	\$390,716.55
Total Fees	\$390,716.55

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3. CONSENT AGENDA ITEMS

3A. WALZEE, LLC, #17-2032, requests after-the-fact authorization to retain 20 timber poles in support of a proposed 184 foot long by 8-foot wide upper deck expansion, with an 84 square foot deck, a 428-foot long by 6-foot long low deck expansion and a 100-foot long by 6-foot wide timber fishing pier with a 300 square foot T-head, adjacent to property situated along the Potomac River at 850 Salisbury Park Road in Westmoreland County. The applicant has agreed to a \$1,000.00 civil charge and triple permit fees of \$300.00 in lieu of further enforcement action.

Tony Watkinson, Chief, Habitat Management, reviewed the consent item for the Board members. Mr. Watkinson’s comments are a part of the verbatim record.

There were no public comments.

Associated Member France moved to approve the after the fact application as presented. Associate Member Minor seconded the motion. The motion carried, 7-0. Chair voted yes.

Civil Charge	\$1,000.00
Fees	\$ 300.00
Total Fees	\$1,300.00

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- 4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.** No closed meeting was necessary.

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- 5. NATIONAL PARK SERVICE, #17-0921,** requests authorization to fill approximately 4.5 acres of State-owned submerged land to reconstruct and restore approximately 5.45 acres of Dyke Marsh, adjacent to the Potomac River and immediately south of the Belle Haven Marina, by the construction of a riprap breakwater structure, associated stone sills and tidal wetland creation, as part of the Dyke Marsh Wildlife Preserve Marsh Restoration/Protection Plan, in Fairfax County. The project is protested. Continued from the January 23 and February 28, 2018, Commission meetings.

Mark Eversole, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Mr. Eversole’s comments are a part of the verbatim record.

Mr. Eversole explained at the request of the Secretary of Natural Resources, a meeting was held on March 9, 2018, to develop a strategy to move the project forward, so that it would be considered by the Commission at the March 27, 2018, meeting. At that meeting an alternative plan was identified that reduces submerged aquatic vegetation (SAV) impacts while scaling back the footprint of the wetland creation portion of the project. The alternative would still allow for the stabilization of Dyke Marsh as well as the construction of emergent tidal wetlands. The plan consists of locating the revised wetland creation boundary at half the distance to the narrowest proposed offshore boundary, beginning at the northern terminus of the wetland creation area, and extending south to terminate at the southern natural shoreline of the same wetland creation area. This portion of the project is intended to create a linear marsh fringe along the forested wetland shoreline and would extend approximately 100 feet channelward into the existing stands of (SAV). An estimated 1.2 acres of SAV would be permanently lost by the creation of this portion of the project. While the National Park Service has not committed to this plan staff finds the size and scope of this compromise appropriate for this area and can support this conceptual

design. Due to the reduced scope of wetland creation resulting from this compromise, the Park Service should have funds available to construct additional shoreline protection to the north of the forested wetland, to protect additional existing marsh at the natural shoreline, and to create a living shoreline immediately north of the landward terminus of the proposed rip rap breakwater structure, to protect the shoreline at the George Washington Parkway. Both of these additional structures, which staff believes are warranted, would, however, require the submission of a Joint Permit Application, and approval by the Fairfax County wetlands board as well as the Commission. The marsh creation, additional shoreline protection, and living shoreline will provide additional habitat and protect existing natural resources from further erosion

Should the Commission choose to approve the proposed plan or the alternative project, staff recommends that the proposed permit conditions outlined in our February 27, 2018, evaluation be incorporated. If the alternative project is approved, staff recommends that the Commission require the submission of detailed drawings for the redesigned wetland creation area. In addition, a plan for use of any collaborative funding to address SAV loss should be provided, for review and approval by Commission staff, prior to any construction of the wetland creation project. If approved, a permit can be issued immediately for the portion of the 1500 linear foot riprap breakwater that is on State-owned submerged lands and construction can proceed while the revised wetland creation and funding plans are being developed. This would allow the project to move forward and avoid the potential loss of critical federal funds for the Dyke Marsh project.

In response to questions from the Commission representatives of the Virginia Institute of Marine Science (VIMS) provided testimony. The VIMS representatives' comments are part of the verbatim record.

Doug Jacobs, on behalf of the National Park Service, was sworn and gave an explanation of the project, with PowerPoint slides. Mr. Jacobs stated that the project purpose was to stabilize and restore the marsh. Mr. Jacobs comments are a part of the verbatim record.

Four (4) people were sworn in and spoke in favor of the project. All of their comments are part of the verbatim record. Those that spoke in favor of the project, expressed concerns for the loss of Dyke marsh due to erosion impacts, the decline of migratory birds, and requested approval of the project.

No one was present in opposition of the project.

Tony Watkinson, Chief Habitat Management reviewed the staff recommendation for the alternative marsh creation plan and including the proposed plan for the riprap breakwater. Mr. Watkinson's comments are a part of the verbatim record.

Doug Jacobs was opposed to the alternate plan because the amount of change from the original project plan.

Public hearing was closed and the matter was before the Commission for discussion and action.

Associate Member Neill made a motion to accept the staff recommendation for the alternative project plan. Associate Member Ballard seconded the motion. Associate Members France and Minor voted no. The motion carried, 5-2. Chair voted yes.

Royalties	PENDING
Fees	\$ 100.00
Total Fees	\$ 100.00

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- 6. **ED DOYLE, #17-1273**, requests authorization to construct two (2) 40-foot long, near-shore, quarry stone breakwaters, and a 20-foot long quarry stone sill at his property on the Piankatank River at 1189 Horse Point Road in Middlesex County. The project is protested by an adjacent property owner.

Jay Woodward, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Mr. Woodward’s comments are a part of the verbatim record.

Mr. Woodward indicated staff believes the project is a reasonable and acceptable use of State-owned bottomlands and therefore supports approval of the permit as proposed. We understand that anytime structures are put into navigable waters of the Commonwealth, it could be considered a navigation hazard. We believe that due to the design and location of the proposed structures in the near-shore area, well landward of an existing shallow bar, it will not represent an undue hazard to navigation. Should the Commission feel that navigation aids or markers would be helpful to further warn boaters of the structures, we would recommend the applicant modify their application to include such markers. In that event, we would coordinate again with the Corps of Engineers and the U.S. Coast Guard for guidance as to appropriate location and design of such aids to navigation

Gary Cosby, a representative for the applicant was sworn and his comments are part of the verbatim record. Mr. Cosby stated that the project is for protection of the land.

Associate Member Minor made a motion to accept the staff recommendation. Associate Member France seconded the motion. The motion carried, 7-0. Chair voted yes.

Permit	\$ 100.00
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- 7. **APPALACHIAN POWER COMPANY, #17-1745**, requests authorization to install new telecom fiber optic cable over four (4) jurisdictional sections of Tinkers Creek and Carvin Creek in Roanoke and Botetourt Counties that includes a 46-foot section of Carvin Creek adjacent to the intersection of Plantation Road and Boxley Road; a 40-foot section of Tinker Creek adjacent to the Hollins Road Rte. 601 bridge; a 23-foot section of Tinker Creek adjacent to the intersection of Plantation Road and Vista Drive; and a 75-foot section of Tinker Creek adjacent to the Lee Highway Rte. 11 bridge. The proposal to install cable over Carvin Creek is protested by an adjoining property owner.

Justin Worrell, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Mr. Worrell’s comments are a part of the verbatim record.

Mr. Worrell explained the request to attach a telecom cable to existing utility poles and over nontidal waterways is a very common application request. Habitat Management staff routinely processes such applications leading to the administrative issuance of Commission permits. Had the request to attach the new line not been protested by the adjoining property owner, staff would have administratively granted the applicant a permit to aerially cross over the State-owned submerged lands of Carvin Creek. It appears that the protestant’s objections pertain to upland property concerns and past dealings with Appalachian Power Company, and have no substantive basis for the Commission to prevent this approval and installation. Therefore, staff recommends approval of the request including a royalty of \$138.00 for the crossing of 46 feet of State-owned submerged lands at the rate of \$3.00 per foot.

Jared Webb, representative for Appalachian Power was sworn in. His comments are part of the verbatim record. Mr. Webb stated that Appalachian Power has reached out to citizen protesting the project and explained the project in further detail.

Associate Member Ballard moved to approve the staff recommendation. Associate Member Minor seconded the motion. The motion carried, 7-0. Chair voted yes.

Royalty fee (Crossing 46 ft. State owned submerged land @ \$3.00 /ft.	\$ 138.00
Fees	\$ 100.00
Total Fees	\$ 238.00

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8. PUBLIC COMMENT:

Jerry Hughes

Mr. Hughes, a recreational fisherman, request the public hearings be held in the evening to allow more people that work during the day to attend.

Russ Perkinson

Mr. Perkinson, a Middlesex County resident and a former DCR employee, wanted to show his support for the agency and its help with bringing back submerged aquatic vegetation in the Bay.

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9. OFFENDERS:

(9-1) – Michael J. Croswell (MRC ID#:009403) – was present and sworn in. Mr. Croswell’s comments are part of the verbatim record.

Officer Austin Brown, Marine Police Officer was sworn in and he gave the briefing of the information provided in the staff’s evaluation. His comments are a part of the verbatim record.

January 19, 2017, Possession of Unculled Oysters: 4VAC20-260-50

Disposition:

February 08, 2017, Gloucester General District Court

Fine: \$50.00; Court Cost: \$86.00

November 2, 2017, Possession of Unculled Oysters: 4VAC20-260-50

Disposition:

February 5, 2018, Middlesex General District Court

Fine: \$250.00; Court Cost: \$86.00

MATRIX GUIDELINE SUGGESTION: 6 MONTH REVOCATION OF ALL SHELLFISH LICENSES (§28.2-232 of the Code of Virginia)

Stephanie Iverson, Fisheries Mgmt. Manager, Sr., explained to the Commission the matrix guidelines, with PowerPoint slides. Ms. Iverson's comments are a part of the verbatim record

Mr. Michael J. Croswell, a commercial fisherman registration licensee, was convicted on February 5, 2018 for one count of possessing unculled oysters (4VAC20-260-50 and §28.2-201 of the code of Virginia), and on February 8, 2017 for one count of possessing unculled oysters (4VAC20-260-50 and §28.2-201 of the code of Virginia).

The Commission's guidelines for sanctions specify that two convictions of possessing unculled oysters, within a two-year period, should result in a six month revocation of all shellfish licenses. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to revoke Mr. Croswell's Commission-issued shellfish licenses for a period of six months from the date of this Commission Meeting, March 27, 2018 through September 26, 2018. The Code of Virginia also allows that the Commission prohibit the issuance, reissuance, and renewal of any of Mr. Croswell's Commission issues shellfish licenses during this revocation period.

Commissioner Bowman asked Mr. Michael Croswell if he had anything to say. Paul Croswell Sr. was sworn spoke on behalf of his son. Mr. Croswell Sr. stated that Keith Jett was the Captain of the vessel at the time of the first summons.

Due to the amount of convictions in less than a year for the same violation, Associate Member Ballard asked Michael Croswell what he was doing wrong and what can be done to fix the problem? Mr. Croswell stated that tries to go through the oyster too fast and is letting too many slide. He stated that he just needs to slow down and take his time culling.

Associate Member France made a motion to recommend 1 year probation. Associate Member Minor seconded the motion. The motion carried, 7-0. Chair voted yes.

(9-2) – Julius Ashburn (MRC ID #:2253) was present and sworn in. Mr. Ashburn's comments are part of the verbatim record.

Officer Case Springfield, Marine Police Officer, was sworn in and he gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

November 30, 2017, Harvesting oysters by Hand Scrape in Hand Tong Area – 4VAC-20-720-70A; Theft of oysters - §28.2-527 and Taking of oysters from public rock out of season - §28.2-506.

Disposition:

January 16, 2018, Newport News General District Court
Fine: \$100.00; Court Cost: \$30.00

MATRIX GUIDELINE SUGGESTION: 3 YEAR PROBATION OF ALL SHELLFISH LICENSES (§28.2-232 of the Code of Virginia)

Stephanie Iverson, Fisheries Mgmt. Manager, Sr., explained to the Commission the matrix guidelines, with PowerPoint slides. Ms. Iverson's comments are a part of the verbatim record

The Commission's guidelines for sanctions specify that one conviction of taking oysters from public rock out of season, within a two-year period, should result in a three year probation. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to place Mr. Ashburn on probation for a period of three years for the date of this Commission meeting, March 27, 2018 through March 26, 2021. Any failure on Mr. Ashburn's part to obey any of the laws of regulations relating to the Marine Resources of the Commonwealth during the three-year probation would result in Mr. Ashburn appearing before the Commission for a hearing on a license revocation.

Julius Ashburn was asked if there was anything that he would like to tell the Commission as to what happened. Mr. Ashburn stated that he was just working on the boat.

Associate Member Ballard moved to approve staff recommendation. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.

(9-3) – David W. Smith (MRC ID #:3440) - was present and sworn in. Mr. Smith's comments are part of the verbatim record.

Officer Case Springfield, Marine Police Officer, was sworn in and he gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

November 30, 2017, Harvesting oysters by Hand Scrape in Hand Tong Area – 4VAC-20-720-70A; Theft of oysters - §28.2-527 and Taking of oysters from public rock out of season - §28.2-506.

Disposition:

Harvesting oysters by Hand Scrape in Hand Tong Area – 4VAC-20-720-70A

February 15, 2018, Newport News General District Court
Fine: \$250.00; Court Cost: \$30.00

Taking of oysters from public rock out of season - §28.2-506.

February 15, 2018, Newport News General District Court
Fine: \$150.00; Court Cost: \$30.00

Theft of oysters - §28.2-527

February 15, 2018, Newport News General District Court
Fine: \$250.00; Court Cost: \$91.00

MATRIX GUIDELINE SUGGESTION: 3 YEAR PROBATION OF ALL SHELLFISH LICENSES (§28.2-232 of the Code of Virginia)

Stephanie Iverson, Fisheries Mgmt. Manager, Sr., explained to the Commission the matrix guidelines, with PowerPoint slides. Ms. Iverson's comments are a part of the verbatim record

Mr. David W. Smith, a commercial fisherman registration licensee, was convicted on February 15, 2018 for one count of having oysters by hand scrape in hand tong area (4VAC-20-720-70A), one count of taking oysters out of season from public rock (7 bushels) (§28.2-506 of the Code of Virginia), and one count of theft of oysters, clams, shells (§28.2-527 of the Code of Virginia).

The Commission's guidelines for sanctions specify that one conviction of taking oysters from public rock out of season, within a two-year period, should result in a three year probation. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to place Mr. Smith on probation for a period of three years for the date of this Commission meeting, March 27, 2018 through March 26, 2021. Any failure on Mr. Smith's part to obey any of the laws of regulations relating to the Marine Resources of the Commonwealth during the three-year probation would result in Mr. Smith appearing before the Commission for a hearing on a license revocation.

David Smith was asked if there was anything that he would like to tell the Commission as to what happened. Mr. Smith, the captain of the vessel and stated that he was using the app on his phone.

Associate Member France moved to approve staff recommendation. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.

(9-4) –Walter L. Smith (MRC ID #:2078) – was present and sworn in. His comments are part of the verbatim record.

Officer Case Springfield, Marine Police Officer, was sworn in and he gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record

Disposition:

Harvesting oysters by Hand Scrape in Hand Tong Area – 4VAC-20-720-70A

February 15, 2018, Newport News General District Court
Fine: \$100.00; Court Cost: \$30.00

Taking of oysters from public rock out of season - §28.2-506.

February 15, 2018, Newport News General District Court
Fine: \$100.00; Court Cost: \$30.00 (Jail time 15 Days Suspended, 1 Year Unsupervised Probation).

Theft of oysters - §28.2-527

February 15, 2018, Newport News General District Court
Fine: \$250.00; Court Cost: \$188.50 (Jail time 30 Days Suspended, 1 Year Unsupervised Probation).

MATRIX GUIDELINE SUGGESTION: 3 YEAR PROBATION OF ALL SHELLFISH LICENSES (§28.2-232 of the Code of Virginia)

Stephanie Iverson, Fisheries Mgmt. Manager, Sr., explained to the Commission the matrix guidelines, with PowerPoint slides. Ms. Iverson's comments are a part of the verbatim record

Mr. Walter L. Smith, a commercial fisherman registration licensee, was convicted on February 15, 2018 for one count of harvesting oysters by hand scrape in a hand tong area (4VAC-20-720-70A), one count of taking oysters out of season from public rock (7 bushels) (§28.2-506 of the Code of Virginia), and one count of theft of oysters, clams, shells (§28.2-527 of the Code of Virginia).

The Commission's guidelines for sanctions specify that one conviction of taking oysters from public rock out of season, within a two-year period, should result in a three year probation. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to place Mr. Smith on probation for a period of three years for the date of this Commission meeting, March 27, 2018 through March 26, 2021. Any failure on Mr. Smith's part to obey any of the laws of regulations relating to the Marine Resources of the Commonwealth during the three-year probation would result in Mr. Smith appearing before the Commission for a hearing on a license revocation.

Walter L. Smith was asked if there was anything that he would like to tell the Commission as to what happened. Mr. Smith did not have anything to say.

Associate Member Ballard moved to approve staff recommendation. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.

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10. VIRGINIA INSTITUTE OF MARINE SCIENCE: Presentation of Dr. Bob Orth's annual review of the status of submerged aquatic vegetation.

Dr. Bob Orth, Virginia Institute of Marine Science (VIMS), gave a detailed PowerPoint presentation and answered questions from Associate Members. His comments are part of a verbatim record.

Mr. Orth spoke in detail about how water quality remains the major driver for Submerged Aquatic Vegetation (SAV) distribution and abundance, the effects on propeller scarring and the importance of monitoring propeller scarring. He also spoke in detail about the VA. Coastal Bays with an update that eelgrass is still expanding and Bay Scallop work continues to show promise.

Staff recommendation is for the allocation of \$22,000 from the Commercial Fishing Advisory Board and Recreational Fishing Advisory Board funds for the continuation of monitoring of the areas of Submerged Aquatic Vegetation subject to continued propeller scarring.

Associate Member Neill moved to approve staff recommendation. Associate Member Minor seconded the motion. The motion carried, 7-0. Chair voted yes.

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11. PUBLIC HEARING: To consider proposed amendments to Chapter 4 VAC 20-1230-10 et. seq., "Pertaining to Restrictions on Shellfish," to change the required recertification time interval for Shellfish Harvest Safety Training Certification, from 2 to 5 years, to conform to National Shellfish Sanitation Program guidelines.

Andrew Button, Head, Conservation/Replenishment, presented the information provided in the staff's evaluation for the Board members. Mr. Button's comments are a part of the verbatim record.

Staff recommends amending Chapter 4VAC 20-1230-10 et seq., "Pertaining to Restrictions on Shellfish" to change the required recertification time interval for Shellfish Harvest Safety Training Certification from two to five years, to conform to National Shellfish Sanitation Program (NSSP) guidelines.

Associate Member Minor made a motion to accept the staff recommendation. Associate Member France seconded the motion. The motion carried, 7-0. Chair voted yes.

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12. PUBLIC HEARING: To consider proposed amendments to Chapter 4 VAC 20-620-10 et. seq., "Pertaining to Summer Flounder," to lower the current recreational summer flounder minimum size limit from 17 inches to 16 ½ inches.

Robert O'Reilly, Chief, Fisheries Mgmt., presented the information provided in the staff's evaluation, with PowerPoint slides for the Board members. Mr. O'Reilly's comments are a part of the verbatim record.

Staff requests the Commission approve the amendment to Chapter 4 VAC 20-620-10 et seq. "Pertaining to Summer Flounder," to lower the current recreational summer flounder minimum size from 17 inches to 16 1/2-inch minimum size limit for the 2018 recreational summer flounder fishery in Virginia waters.

The public hearing was closed and the matter was before the board for discussion and action.

Associate Member Neill made a motion to accept the staff recommendation. Associate Member Minor seconded the motion. The motion carried, 7-0. Chair voted yes.

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13. PUBLIC HEARING: To consider proposed amendments to Chapter 4 VAC 20-620-10 et. seq., "Pertaining to Summer Flounder," to allow New Jersey vessels that possess summer flounder, harvested commercially from federal waters, to enter Virginia waters but not offload summer flounder in Virginia. Currently, North Carolina vessels are afforded this allowance.

Jill Ramsey, Fisheries Mgmt. Specialist, presented the information provided in the staff's evaluation, with PowerPoint slides. Ms. Ramsey's comments are a part of the verbatim record.

Staff recommends the Commission amend Chapter 4 VAC 20-620-10 et seq. "Pertaining to Summer Flounder," to change the wording in the regulation and add "New Jersey" which will allow New Jersey vessels that possess summer flounder, harvested commercially from federal waters, to enter Virginia waters but not offload summer flounder in Virginia.

The public hearing was closed and the matter was before the board for discussion and action.

Associate Member Minor made a motion to accept the staff recommendation. Associate Member Ballard seconded the motion. The motion carried, 7-0. Chair voted yes.

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- 14. PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-510-10 et seq., "Pertaining to Amberjack and Cobia," to adopt commercial and recreational fishing regulations required by the recently approved Atlantic States Marine Fisheries Commission management plan for cobia.

Ryan Jiorle, Fisheries Mgmt. Specialist, presented the information provided in the staff's evaluation, with PowerPoint slides. Mr. Jiorle's comments are a part of the verbatim record.

Staff recommends the Commission adopt the following amendments to Chapter 4 VAC20-510-10 et seq., "Pertaining to Amberjack and Cobia": 1) establish a 6-fish daily vessel limit for all commercial gears; 2) establish a daily possession limit of 2 per Commercial Fisherman Registration Licensee, for all commercial gears; and 3) establish a recreational season of June 1st-September 30th.

Chris Ludford, a commercial hook & line holder, spoke about other states that do not have strict Cobia enforcement. Mr. Ludford's comments are a part of the verbatim record.

Will Branson, Recreational Anglers Club, spoke in favor of the regulation as presented and he request the gaff back. Mr. Branson's comments are a part of the verbatim record.

Mike Avery, VA. Saltwater Fishing Association spoke of the poll survey that was presented to many anglers. Mr. Avery is also in favor of the gaff and stated that there is not enough data to support the 'no gaff' regulation. Mr. Avery's comments are a part of the verbatim record.

Jerry Hughes, Great Bridge Angler's Association, spoke in favor of the gaff and requested an update on the VMRC's Mandatory Recreational Reporting data usage, which staff provided after the public hearing closed. Mr. Hughes' comments are a part of the verbatim record.

Colson Pokorny spoke of the economical difficultly that the regulations will have on his investment in the fishery. Mr. Pokorny's comments are a part of a verbatim record.

Coles McCormick spoke of the economical difficultly that the regulations will have on his investment in the fishery. Mr. McCormick's comments are a part of a verbatim record.

Harry Curiako, hook & line fisherman, also spoke on how the fishery will have an effect on his income.

Stan Suffolk spoke in favor of the gaff. Mr. Suffolk’s comments are a part of the verbatim record.

Wes Blow, recreational fisherman, spoke in favor the ‘Option 1 – May 15 – Sept. 15 season and he is favor of continuing with ‘No Gaff’ as a conservation matter. Mr. Blow’s comments are a part of a verbatim record.

Zach Hoffman, hook & line fisherman spoke in favor of the gaff and how his income will be affected yearly. Mr. Hoffman’s comments are a part of the verbatim record.

The public hearing was closed and the matter was before the board for discussion and action.

After much discussion from Associate Members and staff, it was decided to also allow recreational fisherman the use of the gaff when landing Cobia.

Associate Member Neill made a motion to accept the staff recommendation, with the addition of allowing recreational anglers to use a gaff while landing cobia. Associate Member Ballard seconded the motion. The motion carried, 7-0. Chair voted yes.

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- 15. **DISCUSSION:** A request for an April public hearing to consider amendments to Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks," that would: 1) establish the May 1, 2018 through April 30, 2019 commercial spiny dogfish harvest quota as 4,123,239 pounds; and, 2) modify harvest limits.

Jill Ramsey, gave the briefing of the information provided in the staff’s evaluation. Ms. Ramsey’s comments are a part of the verbatim record.

Staff recommends the Commission advertise for an April 2018 public hearing to adopt the 2018-19 commercial spiny dogfish harvest quota at 4,123,239 pounds and modify the harvest limits.

Public hearing was closed and the matter was before the Commission for discussion and action.

Associate Member Minor made a motion to accept the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.

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- 16. DISCUSSION:** A request for an April public hearing to consider amendments to Chapter 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass," to establish the 2018 recreational fishery management measures.

Robert O'Reilly, Chief, Fisheries Mgmt., presented the information provided in the staff's evaluation for the Board Members. Mr. O' Reilly's comments are a part of the verbatim record.

Staff requests the Commission approval of an advertisement of the change to the recreational black sea bass fishing season in for 2018 and an April public hearing to establish the amendments in Chapter 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass."

Associate Member Neill made a motion to accept the staff recommendation. Associate Member Minor seconded the motion. The motion carried, 7-0. Chair voted yes.

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- 17. DISCUSSION:** Request for April public hearing. The Commission proposes to consider amending Chapter 4 VAC 20-752-10 et seq., by modifying the season closure dates in sanctuary Areas 2, 3 and 4, from May 9 to May 16.

Sara Blachman, Fisheries Mgmt. Specialist, presented the information provided in the staff's evaluation with a PowerPoint presentation for the Board members. Ms. Blachman's comments are a part of the verbatim record.

Staff recommends advertising for an April public hearing to amend Chapter 4 VAC 20-752-10 et seq., "Pertaining to the Blue Crab Sanctuary," to change the start of the season closure to crab harvesting in Areas 2, 3, and 4 of the Blue Crab Sanctuary from May 9 to May 16.

Associate Member Minor made a motion to approve the staff recommendation. Associate Member France seconded the motion. The motion carried, 7-0. Chair voted yes.

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- 18. DISCUSSION:** Establish 2018 recreational blueline tilefish fishery measures.

Lewis Gillingham, Director, SWFT, presented the information provided in the staff's evaluation for the Board members. Mr. Gillingham's comments are a part of the verbatim record.

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Staff recommends the Commission advertise an April public hearing to consider amending Chapter 4VAC20-1120-10 et seq., to establish the recreational blueline tilefish fishery measure for 2018.

Associate Member Minor made a motion to approve the staff recommendation. Associate Member Everett seconded the motion. The motion carried, 7-0. Chair voted yes.

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There being no further business, the meeting was adjourned at approximately 4:08 p.m. The next Commission meeting will be Tuesday, April 24, 2018.

Steven G. Bowman, Commissioner

Jamie Hogge, Recording Secretary