

MINUTES

Commission Meeting

February 23, 2016

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:

John M. R. Bull	Commissioner
A. J. Erskine	
G. Wayne France	
S. Lynn Kellum	Associate Members
James E. Minor	
Ken Neill, III	
John E. Tankard, III	
John E. Zydron	
Matthew Hull	Assistant Attorney General
Laurie Naismith	Director, Public Relations
Katherine Leonard	Recording Secretary
Jane McCroskey	Chief, Admin-Finance
Todd Sperling	Business Systems Specialist, Sr.
Dave Lego	Business Systems Specialist
Robert O'Reilly	Chief, Fisheries Mgmt.
Joe Cimino	Deputy Chief, Fisheries Mgmt.
Jim Wesson	Head, Conservation/Replenishment
Stephanie Iverson	Fisheries Management Mgr.
Alicia Nelson	Coordinator, RFAB/CFAB
Samantha Hornsby	Fisheries Mgmt. Technician
Jill Ramsey	Fisheries Mgmt. Planner
Lewis Gillingham	Director, SWFT
Laurie Dozier	Fisheries Mgmt. Specialist
Adam Kenyon	Fisheries Mgmt. Specialist
Katie May Laumann	Fisheries Mgmt. Specialist
Ryan Jiorle	Fisheries Mgmt. Specialist
Rick Lauderman	Chief, Law Enforcement
Warner Rhodes	Deputy Chief, Law Enforcement
Mike Morris	Sr. Marine Police Officer
Patrick West	Marine Police Officer
Brandon Price	Marine Police Officer
Tyler Charnock	Marine Police Officer

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Marshall Reedy

Marine Police Officer

Tony Watkinson

Chief, Habitat Management

Chip Neikirk

Deputy Chief, Habitat Management

Jeff Madden

Environmental Engineer, Sr.

Hank Badger

Environmental Engineer, Sr.

Randy Owen

Environmental Engineer, Sr.

Ben Stagg

Chief Engineer Western Shore

Mark Eversole

Environmental Engineer, Sr.

Justin Worrell

Environmental Engineer, Sr.

Mike Johnson

Environmental Engineer, Sr.

Rachael Maulorico

Environmental Engineer, Sr.

Brad Reams

Environmental Specialist

Daniel Faggert

Surveyor, Engineering/Surveying

Virginia Institute of Marine Science (VIMS):

Lyle Varnell

Others present:

Randy Pack

Brian Pack

Anna Lambert

Patrick Kellar

Dylan Kellar

Jessica Bassi

Richard Harr

Kristen Scheler

Chris Moore

Dave Mayfield

Wes Blow

Kenneth Green

Richard Green

Tommy Belvin

Joshua Pretlow

Johnny Cope

Brian West

Jackie Shannon

Jean Keeling

Jim Keeling

Adam Keeling

Jerry Rhea

David E. Follett

Andy Lacatell

Mike Claire

Douglas Buckley

and others.

Commissioner Bull called the meeting to order at approximately 9:39 a.m. Associate Member Ballard was absent.

At the request of Commissioner Bull, Associate Member Erskine said the invocation and Tony Watkinson, Chief, Habitat Management, led the pledge.

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

Commissioner Bull stated the agenda was approved by consensus of the Board.

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MINUTES: Commissioner Bull asked if there were any changes or corrections to be made to the January 26, 2016 Commission meeting minutes. There were no changes.

Associate Member Zydron moved to approve the minutes, as presented. Associate Member Kellum seconded the motion. The motion carried, 7-0-1. Chair voted yes. Associate Member Minor abstained as he was absent at the last meeting.

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Commissioner Bull 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, informed the Commission that there were three page two items to be heard, 2A through 2C. He reviewed these items for the Board. His comments are a part of the verbatim record.

Commissioner Bull opened the public hearing for any public comments for any of the items presented. As there were no comments, pro or con, he stated the public hearing was closed and the matter was before the Commission for discussion and action.

Associate Member Zydron moved to approve the three page two items, A through C, as submitted. Associate Member Erskine seconded the motion. The motion carried, 8-0. Chair voted yes.

2A. TOWN OF CHATHAM, #15-0262, Requests authorization to remove an existing water intake structure and to install a temporary 12-foot by 2-foot water intake structure, install a temporary cofferdam and flume stream bypass system, install a 32 linear foot and a 22 linear foot precast concrete stream bank stabilization structure, install a permanent 90-inch long by 24 inch diameter water intake structure extending ten (10) feet channelward of ordinary high water, and dredge up to 125 cubic yards of material to maintain water flow around the temporary water intake structure and remove accumulated debris upstream of the

existing dam along Cherrystone Creek near the Chatham Water Treatment Plant
1620 Cherrystone Lake Road in Pittsylvania County.

Permit Fee	\$100.00
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- 2B. DEPARTMENT OF THE NAVY, #15-1561,** Requests authorization to install 170 linear feet of new sheet-pile bulkhead a maximum of three (3) feet channelward of an existing bulkhead, backfill with tremie concrete and install a wooden fender pile system extending 143 feet along the proposed length of the bulkhead adjacent to D Avenue at U.S. Naval Base Norfolk.

Permit Fee	\$100.00
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- 2C. NEWPORT NEWS DEPARTMENT OF ENGINEERING, #15-1674,** Requests authorization to maintenance dredge 18,000 cubic yards of State-owned subaqueous bottom to maintain depths of minus nine (-9) feet mean low water in the access channel from the James River to the Huntington Park Marina at 9285 Warwick Boulevard in the City of Newport News. Staff recommends approval with standard dredging permit conditions and a time-of-year restriction from February 15 through June 15 of any year to protect anadromous fish.

Permit Fee	\$100.00
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- 3. CONSENT AGENDA ITEMS.** None.

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- 4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.** A closed meeting was not necessary.

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- 5. ARMY CORPS OF ENGINEERS. #12-0255,** requests authorization for an additional dredge material placement site along the northern shoreline of Port Isobel landward of the existing stone breakwaters for up to 15,000 cubic yards of dredged material, per dredge cycle, from the hydraulic maintenance dredging in the two federal project channels near Tangier Island in Accomack County. The project requires a dune/beach and subaqueous permit.

Hank Badger, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record.

Mr. Badger explained that after evaluating the merits of the project and after considering all of the factors contained in §28.2-1205 (A) and §28.2-1403 (10) (B) of the Code of Virginia, staff recommended approval of the project, as submitted, with the following condition: A SAV Mitigation Plan acceptable to staff and VIMS to compensate for the impacted SAV at a minimum rate of 1:1 shall be prepared and approved prior to issuing a permit. The applicant shall be guided by the Commission’s Regulation 4 VAC 20-337-10, et.seq. “Submerged Aquatic Vegetation Transplantation Guidelines” in the development of any required SAV mitigation plan. All other existing permit conditions would remain the same.

Kristen Scheler representing the ACOE was sworn in and her comments are a part of the verbatim record. Ms. Chandler stated that the ACOE staff was talking with VIMS staff and they expected to reach an agreement with VIMS in approximately two weeks.

Commissioner Bull opened the public hearing for comments, pro or con.

Chris Moore, representing the Chesapeake Bay Foundation, was sworn in and his comments are a part of the verbatim record. Mr. Moore explained that the CBF staff had been working for a long time on this project in order to protect the area and protect the habitat.

Commissioner Bull closed the public hearing and stated the matter was before the Commission for discussion or action.

Associate Member Neill moved to accept the staff recommendation. Associate Member Tankard seconded the motion. The motion carried, 8-0. Chair voted yes.

Permit Fee	\$100.00
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- 6. VIRGINIA ELECTRIC AND POWER COMPANY, #15-1811,** requests authorization to install guy wires and temporary access matting in tidal wetlands for the replacement of two (2) H-frame towers associated with the replacement of existing 115kV transmission lines that cross Bailey Creek and the Western Branch Elizabeth River in Chesapeake. The project requires a wetlands and subaqueous permit.

Rachael Maulorico, Environmental Engineer, Sr., gave the briefing of the information provided in the staff’s evaluation with slides. Her comments are a part of the verbatim record.

Ms. Maulorico explained that after evaluating the merits of the project and considering all of the factors contained in §28.2-1205(A) and §28.2-1302(10)(B) in the Code of Virginia,

staff recommended approval of the project conditioned upon the restoration of the wetlands areas impacted by the temporary matting and construction activities during the following growing season. The guy wire impacts were nominal as there will only be small screws in the ground to connect the support wires. The proposed aerial line crossing at both sites would be higher than the existing line and would be in the same general footprint. Staff felt that no compensation was necessary for the minimal wetlands impacts and recommended a royalty at \$3.00 per linear foot for the crossing of the new line over 388 linear feet of State-owned submerged land.

Commissioner Bull asked if the applicant or a representative wished to comments.

Anna Lambert, agent for the applicant, was sworn in and her comments are a part of the verbatim record. Ms. Lambert stated that she did not have anything to add to staff's comments.

Commissioner Bull opened the public hearing for comments. There were no public comment, the public hearing was closed. He stated the matter was before the Commission for discussion or action.

Associate Member Erskine moved to approve the staff recommendation. Associate Member Kellum seconded the motion. The motion carried, 8-0. Chair voted yes.

Royalty Fee (crossing 388LF @ \$3.00/LF	\$1,164.00
Permit Fee	\$ 100.00
Total Fees	\$1,164.00

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- 7. **PACK DEVELOPMENT CO., LLC, #15-0771**, requests authorization to mechanically maintenance dredge 3,161 cubic yards of State-owned subaqueous bottom on an annual dredge cycle to attain and maintain depths of minus six (-6) feet mean low water at the Marina at Smithfield Station located along the Pagan River at 415 South Church Street in Isle of Wight County. The project is protested by an adjacent property owner.

Mike Johnson, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record.

Mr. Johnson explained that after evaluating the merits of the project against the concerns expressed by those in opposition to the project and after considering all of the factors contained in §28.2-1205 of the Code of Virginia, staff recommends approval of the

maintenance dredging as proposed with standard dredging permit conditions and a time-of-year restriction of February 15 through June 15 to protect anadromous fish.

Commission Bull asked if the applicant wished to comment.

Randy Pack, applicant, was sworn in and his comments are a part of the verbatim record. Mr. Pack explained that they needed and requested that they be allowed to work earlier starting during the time of year restriction to allow them the time necessary to complete the maintenance dredging in order for them to have boat slips available during the busiest season for their marina. He added that the boat slips were filled in and did not have the water depth necessary for boats to access the slips at this time.

After some discussion, Commissioner Bull opened the public hearing to comments, pro or con. As there were none, he stated the public hearing was closed and the matter was before the Commission for discussion or action.

Lyle Varnell, VIMS, was asked to comment. He said that the anadromous fish enter the James River in February. He added they do not monitor the area this far down but it was highly used by the fish. He noted that at the end of the season in June would be less impacting. In response to a question, he explained that they had found that the while the dredge was operating, the noise impacted the fish and redirected them. In response to another question, Mr. Varnell stated that it could impact the newly spawned fish when leaving the area in June. His comments are a part of the verbatim record.

After much discussion, Commissioner Bull asked for a motion.

Associate Member Tankard moved to accept the staff recommendation for approval with the standard time of year restriction, February 15 through June 15. Associate Member France seconded the motion. The motion failed, 4-4. Chair voted yes. Associate Members Zydron, Erskine, Kellum, and Neill all voted no.

Associate Member Zydron moved to accept the staff recommendation, but to move the ending date of the time of year restriction to May 15. Associate Member Erskine seconded the motion. The motion failed, 4-4. Chair voted no. Associate Members Tankard, Minor and France all voted no.

Associate Member Zydron moved to accept the staff recommendation. Associate Member Tankard seconded the motion. The motion carried, 8-0. Chair voted yes.

Permit Fee	\$100.00
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8. **CHARLES PATRICK KELLAR and DYLAN RYAN KELLAR, #2014-210,** Oyster Planting Ground Application. Applicants seek to lease approximately 90 acres of planting grounds within Mud Creek in Middlesex County. The application is protested by a nearby property owner.

Ben Stagg, Chief Engineer Western Shore gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Mr. Stagg explained that staff believed leasing of this area should not present a navigation issue as marked, provided the applicant adheres to leasing requirements of the Code of Virginia and VMRC regulations concerning the marking of leased grounds and/or placement of aquaculture structures upon the leased area. The protestants apparently had no legal right to use the highland property in the area known as the Punch Bowl that was noted in their complaint, as that property is owned by others. Staff recommended leasing of the area, as surveyed and platted, containing 101.49 acres.

Commissioner Bull asked if the applicants wished to comment.

Messrs. Charles and Dylan Kellar were both sworn in and their comments in support are a part of the verbatim record. They explained that they were only interested in repopulating the oysters in the area that grow naturally, just adding cultch materials and not necessarily utilizing cages. They added they could use cages later, but it would only be along the shoreline. They noted that they were instructed by the surveyor to put stakes in indicating what area they were interested in leasing, which they did. A lot of the stakes would be removed once it is surveyed and they may need as many as six. They stated the surrounding highland area was underdeveloped and probably never would be when you consider the Chesapeake Bay Act and the farmers in the area are not interested in using the area. They noted that a Mr. Green had held a lease in the area requested.

Commissioner Bull asked for public comments, pro or con. There were none. He closed the public hearing and stated the matter was before the Commission for discussion or action.

Associate Member Tankard moved to approve the lease application. Associate Member Minor seconded the motion. The motion carried, 7-1. Chair voted yes. Associate Member France voted no.

9. **GINA LEIGH THAYER, #2014-272,** Oyster Planting Ground Application. Applicant seeks to lease up to ten (10) acres of planting grounds within Aberdeen Creek in Gloucester County. The application is within waters currently classified as condemned for the direct market harvest of oysters.

Ben Stagg, Chief Engineer Western Shore gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Mr. Stagg explained that the applicants applied for this area before the March 22, 2015, Commission decision to no longer accept applications in waters classified as restricted for the direct market harvest of shellfish. These applicants were notified of the Commission decision at that time and they requested that the application still be considered by the Board. Based on previous Commission action on other applications also received before the March 2015 Commission action to deny similar pending applications within condemned shellfish waters, staff believed that leasing of this area was not in the best interests of the Commonwealth. Pursuant to §28.2-607 of the Code of Virginia, staff recommended denial of the application. Should the Commission deem it was in the best interest of the Commonwealth to lease the area, staff would proceed with the surveying of the application as soon as possible and if no protest was received pursuant to the required waiting period of 30 days after the survey plat was approved, as required by the Code of Virginia, and upon payment by the applicant of all required fees, the lease would be assigned administratively.

Mr. Stagg noted that the applicants were not present and they were notified of the hearing.

Commissioner Bull asked for public comments, pro or con. There were none. He stated the matter was before the Commission for discussion or action.

Associate Member Zydron moved to accept the staff recommendation to deny the lease application. Associate Member Erskine seconded the motion. The motion carried, 8-0. Chair voted yes.

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10. PUBLIC COMMENT:

Cobia Fishery:

Associate Member Neill expressed his concerns with the possible closure of the Cobia Fishery in Federal Waters proposed by National Marine Fisheries Service (NMFS) because of the unusually high landings in 2015 by recreational fishermen. He asked what impacts it would have on Virginia and he felt this issue needed to be addressed sooner better than later and that April would be too late. He noted that other States such as South Carolina and North Carolina had taken some action.

Robert O'Reilly, Chief, Fisheries Management, explained that 56% of the 2015 harvest quota had been caught and this included harvested cobia only, but not dead fish. He noted that there are going to be public hearings held and not all of these events had

occurred yet. He said that he had staff looking at this issue and there was not enough data. He suggested that the Commission have a discussion about holding a public hearing at the March meeting.

Wes Blow, cobia fisherman, expressed his concerns for the fishery because of the large number of larger cobia being killed and the quality of the fishery had gone down. He stated he felt that there needed to be something done in April before it was too late. His comments are a part of the verbatim record.

After much discussion, it was agreed that the staff would look into this matter further and have more discussion at the March meeting about whether it will be necessary to hold a public hearing in April. Commissioner Bull stated that if necessary emergency action could be done at the March meeting.

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11. OFFENDERS:

Mike Morris, Senior Marine Police Officer gave the briefing of the information provided in the staff’s evaluation. His comments are a part of the verbatim record.

James A. Keeling – was present and sworn in

July 30, 2014—Failure to Have On Board an Oyster Harvesting Vessel, an Approved Receptacle for Sewage Disposal—§28.2-201 of the Code of Virginia; 4 VAC 20-1100-20B; May 28, 2015, Suffolk Circuit Court; Fine: \$50.00; 90 days Jail/90 days suspended; Two years Good Behavior; Court Cost: \$110.00

July 30, 2014—Taking Oysters Out of Season—§28.2-506 of the Code of Virginia; May 28, 2015, Suffolk Circuit Court; Fine: \$50.00; 90 days Jail/90 days suspended; Two years Good Behavior; Court Cost: \$110.00

July 30, 2014—Remove Oysters from a Condemned Area without Proper Permit—§28.2-821 of the Code of Virginia; May 28, 2015, Suffolk Circuit Court; Fine: \$50.00; 90 days Jail/90 days suspended; Two years Good Behavior; Court Cost: \$110.00

August 4, 2014—False Statement/Alter Fishing License—§28.2-230 of the Code of Virginia; August 31, 2015, Newport News Circuit Court; Fine: \$1,000.00; Court Cost: \$257.00

Joe Cimino, Deputy Chief, Fisheries Management read the staff’s recommendation. Mr. Keeling is currently on probation from February 25, 2014, through February 24, 2016, for a warm water violation. The Commission’s guidelines for sanctions specify that one

conviction of harvesting oysters during a closed public season or harvesting oysters from a condemned area, within a 12 month period, should result in at least a 2 year revocation on the offender's second commission appearance. In accordance with §28.2-232 of the Code of Virginia, staff recommended the Commission revoke all Mr. Keeling's licenses to take or catch fish, shellfish, or marine organisms for a period of two years from the date of this Commission meeting, February 23, 2016, through February 22, 2018. Staff also recommended the Commission prohibit the issuance, reissuance, and renewal of any of Mr. Keeling's licenses during this revocation period. Staff also recommended the Commission revoke Mr. Keeling's fishing privileges, within the Commonwealth's tidal waters, for a period of two years from the date of this Commission meeting, February 23, 2016, through February 22, 2018.

John Cope, Attorney for Mr. Keeling, was present and his comments are a part of the verbatim record. Mr. Cope stated that Mr. Keeling had worked on the water for more than 40 years, he was married, had a mortgage, and was the sole support of his family. He explained that Mr. Keeling did not realize he needed another permit for a different boat and there was no intent to deceive when he changed the information on the permit. He asked the Commission to consider not taking Mr. Keeling's licenses as his other boat had been broken down. He said Mr. Keeling was not abusive to the officer, there were no severe damages, and he was not on public grounds. He said if the boat had been permitted the only charge would have been he was out of the permitted area.

Joshua Pretlow, Attorney for Mr. Keeling, was present and his comments are a part of the verbatim record. Mr. Pretlow stated said this all occurred on only one day and Mr. Keeling had called VMRC to let them know he would be there. The issue of no sanitary bucket was dismissed by the court and Mr. Keeling had a permit to harvest and haul. He noted that Mr. Keeling had been allowed to plant the oysters by the officer. He stated Mr. Keeling just took the wrong boat. He asked that Mr. Keeling's licenses not be taken.

Adam Keeling, son, was sworn in and his comments are a part of the verbatim record. Mr. Keeling stated that his father always tried to do right and was an upstanding citizen. He added there were no injuries and no harm done, only minor offenses. He said his father had worked on the water for 42 years and taking his licenses would also harm his family. He asked for his father to be placed on probation.

There was much discussion including the fact that the violations occurred while Mr. Keeling was already on probation and he had past offenses. Commissioner Bull stated the matter was before the Commission and asked for a motion.

Associate Member Tankard moved to accept the staff recommendation for revocation of all of Mr. Keeling's licenses and fishing privileges for two years, starting February 23, 2016, through February 22, 2018. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.

Brandon Price, Marine Police Officer, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Jerry W. Rhea, Jr. – was present and sworn in.

December 31, 2014—Operate Shellfish Establishment without Permit—12 VAC 5-15-20; September 21, 2015, York County General District Court (Criminal). Fine: \$500.00; Six months Jail/Six months suspended; Five years Good Behavior; Court Cost: \$96.00

January 8, 2015—Fail to Pay Oyster License Fee—§28.2-504 of the Code of Virginia; September 21, 2015, York County General District Court (Criminal).
Fine: \$500.00; Court Cost: \$25.00

January 8, 2015—Fail to Attach Harvester's Tag on Shellfish—§28.2-201 of the Code of Virginia; 4 VAC 20-1250-30; September 21, 2015, York County General District Court (Criminal); Fine: \$500.00; Court Cost: \$25.00

January 29, 2015—Fail to Pay Oyster License Fee—§28.2-504 of the Code of Virginia; September 21, 2015, York County General District Court (Criminal); Fine: \$500.00; Court Cost: \$25.00

Joe Cimino, Deputy Chief, Fisheries Management read the staff's recommendation. The Commission's guidelines for sanctions specify that two convictions of harvesting oysters without an oyster resource user fee and gear license, within a 12 month period, should result in at least one year probation. However, given the severity of the situation, the number of convictions, and the specific details of this case, staff recommended two year revocation. In accordance with §28.2-232 of the Code of Virginia, staff recommended the Commission revoke all Mr. Rhea's licenses to take or catch fish, shellfish, or marine organisms for a period of two years from the date of this Commission meeting, February 23, 2016, through February 22, 2018. Staff also recommended the Commission prohibit the issuance, reissuance, and renewal of any of Mr. Rhea's licenses during this revocation period. Staff recommends the Commission revoke Mr. Rhea's fishing privileges, within the Commonwealth's tidal waters, for a period of two years from the date of this Commission meeting, February 23, 2016, through February 22, 2018.

Mr. Rhea stated he made a mistake and he admitted to shucking ten quarts last year. He said he had done 200 quarts over the last ten years, as the captain would give a bushel to take home. He stated he was not making a living, it was not in polluted waters and it had all its tags. He stated he was wrong and asked that he be put on probation. In response to a question, this was the first time he sold them as he usually gave them away.

Associate Member Tankard moved to accept the staff recommendation for two year revocation of all Mr. Rhea's licenses and all of his fishing privileges, starting

February 23, 2016, through February 22, 2018. Associate Member Erskine seconded the motion. The motion carried, 8-0. Chair voted yes.

Brandon Price, Marine Police Officer, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

David E. Follett – was present and sworn in.

January 15, 2015—Fail to Register as Commercial Fisherman—§28.2-241 of the Code of Virginia; September 21, 2015, York County General District Court (Criminal); Fine: \$500.00; Court Cost: \$25.00

January 21, 2015—Fail to Pay Oysters License Fee—§28.2-504 of the Code of Virginia; September 21, 2015, York County General District Court (Criminal); Fine: \$500.00; Six months Jail/Six months suspended; Three years Good Behavior; Court Cost: \$86.00

January 21, 2015—No Certificate of Inspection—12 VAC 5-150-20; September 21, 2015, York County General District Court (Criminal); Fine: \$500.00; Court Cost: \$25.00

Joe Cimino, Deputy Chief, Fisheries Management read the staff's recommendation. The Commission's guidelines for sanctions specify that two convictions of failure to possess a commercial license (without eligibility), within 24 months, and two convictions of harvesting oysters without an oyster resource user fee and gear license, within a 12 month period, should both result in at least one year probation. However, given the severity of the situation, the number of convictions, and the specific details of this case, staff is recommending a two year revocation. In accordance with §28.2-232 of the Code of Virginia, staff recommends the Commission revoke all Mr. Follett's licenses to take or catch fish, shellfish, or marine organisms for a period of two years from the date of this Commission meeting, February 23, 2016, through February 22, 2018. Staff also recommends the Commission prohibit the issuance, reissuance, and renewal of any of Mr. Follett's licenses during this revocation period. Staff recommends the Commission revoke Mr. Follett's fishing privileges, within the Commonwealth's tidal waters, for a period of two years from the date of this Commission meeting, February 23, 2016, through February 22, 2018.

Mr. Follett said he did not think he was doing anything wrong and he only sold two quarts when he could have done a lot more. He said he had paid his court fines and was on probation. When asked, he stated he was picking up the oysters in an area near Fort Monroe in Mill Creek.

Commissioner Bull told him those were polluted waters and those oysters could have made someone sick or worst. He stated the matter was before the Commission.

Associate Member Zydron moved to accept the staff recommendation for two year revocation of all licenses and all fishing privileges, starting February 23, 2016, through February 22, 2018. Associate Member Tankard seconded the motion. The motion carried, 8-0. Chair voted yes.

Mike Morris, Senior Marine Police Officer, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Brian E. West – was present and sworn in.

August 14, 2014—Taking Oysters out of Season—§28.2-506 of the Code of Virginia;
August 26, 2015, Isle of Wight County Circuit Court; Fine: \$500.00; 90 days Jail/90 days suspended; One year Good Behavior; Court Cost: \$108.00

Joe Cimino, Deputy Chief, Fisheries Management read the staff's recommendation. The Commission's guidelines for sanctions specify that one conviction of harvesting oysters during a closed public season, within a 12 month period, should result in at least one year revocation. In accordance with §28.2-232 of the Code of Virginia, staff recommended the Commission revoke all Mr. West's licenses to take or catch fish, shellfish, or marine organisms for a period of one year from the date of this Commission meeting, February 23, 2016, through February 22, 2017. Staff also recommended the Commission prohibit the issuance, reissuance, and renewal of any of Mr. West's licenses during this revocation period. Staff also recommended the Commission revoke Mr. West's fishing privileges, within the Commonwealth's tidal waters, for a period of one year from the date of this Commission meeting, February 23, 2016, through February 22, 2017.

Mr. West stated he had nothing to say as he was already convicted. He asked that his licenses not be suspended as a lot of other watermen depend on him.

After some discussion, Associate Member Zydron moved to accept the staff recommendation for one year revocation of all Mr. West's licenses and fishing privileges, starting February 23, 2016, through February 22, 2017. Associate Member Kellum seconded the motion. The motion carried, 8-0. Chair voted yes.

Patrick West, Marine Police Officer, gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

Tommy S. Belvin – was present and sworn in.

August 30, 2015—Crab Pots without Cull Rings—4 VAC 20-700-20; October 19, 2015, York County General District Court (Criminal); Fine: \$75.00; Court Cost: \$96.00

August 30, 2015—Crab Pot with Wrong Size Cull Ring—4 VAC 20-700-20; October 19, 2015, York County General District Court (Criminal); Fine: \$25.00; Court Cost: \$25.00

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August 30, 2015—No Numbers on Crab Pot Float—Class 1 Misdemeanor—§28.2-712 of the Code of Virginia; October 19, 2015, York County General District Court (Criminal); Fine: \$75.00; Court Cost: \$25.00

August 30, 2015—Having Crab Pot Floats with Multiple Numbers—4 VAC 20-140-25; October 19, 2015, York County General District Court (Criminal).
Fine: \$25.00; Court Costs: \$25.00

August 31, 2015—Having Crab Pots without Cull Rings—4 VAC 20-700-20; October 19, 2015, York County General District Court (Criminal); Fine: \$75.00; Court Cost: \$86.00

August 31, 2015—No Numbers on Crab Pot Float—Class 1 Misdemeanor--§28.2-712 of the Code of Virginia; October 19, 2015, York County General District Court (Criminal); Fine: \$75.00; Court Cost: \$25.00

August 31, 2015—Having Crab Pot Floats with Multiple Numbers—4 VAC 20-140-25; October 19, 2015, York County General District Court (Criminal); Fine: \$25.00; Court Cost: \$25.00

Joe Cimino, Deputy Chief, Fisheries Management read the staff's recommendation. The Commission's guidelines for sanctions specify that two convictions of obstructed cull rings, within a 24 month period, should result in at least 2 years probation. However, given the severity of the situation staff is recommending one year revocation. In accordance with §28.2-232 of the Code of Virginia, staff recommends the Commission revoke all Mr. Belvin's licenses to take or catch fish, shellfish, or marine organisms for a period of one year from the date of this Commission meeting, February 23, 2016, through February 22, 2017. Staff also recommends the Commission prohibit the issuance, reissuance, and renewal of any of Mr. Belvin's licenses during this revocation period. Staff recommends the Commission revoke Mr. Belvin's fishing privileges, within the Commonwealth's tidal waters, for a period of one year from the date of this Commission meeting, February 23, 2016, through February 22, 2017.

Mr. Belvin explained that he did not have enough money to buy what he needed to replace the cull rings and he had others who took care of the cages. He was trying to correct the missing rings, but the officer had been there already. He said he could not afford to lose his licenses and he had not been hurting anyone. He stated he was sorry.

After some more discussion, Associate Member Zydron made a motion to place Mr. Belvin on probation for two years, starting February 23, 2016, through February 22, 2018. Associate Member Minor seconded the motion. Associate Member Tankard stated that he felt this was a premeditated action to circumvent the law and he did not support the motion. Commissioner Bull noted that he did support the motion. The motion carried, 7-1. Chair voted yes. Associate Member Tankard voted no.

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12. **PUBLIC HEARING:** Make permanent emergency amendments to Chapter 4 VAC 20-620-10 et seq. "Pertaining to Summer Flounder," to modify the landing dates, landing periods, possession limits and landing limits for summer flounder commercially harvested outside of Virginia waters.

Joe Cimino, Deputy Chief, Fisheries Management gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record.

Mr. Cimino explained that staff recommended adopting amendments to Chapter 4 VAC 20-620-10 et seq. "Pertaining to Summer Flounder," to modify the landing dates, landing periods, possession limits and landing limits for summer flounder commercially harvested outside of Virginia waters. Amendments to Section 4 VAC 20-620-40B establish an allowance for North Carolina possession limits in Virginia waters and the proposed amendments to Section 4 VAC 20-620-40C to establish the landing dates and periods, as well as the landing limits. The changes were:

B. Nothing in this chapter shall preclude a vessel from possessing any North Carolina vessel possession limit of summer flounder in Virginia; however, no vessel that possesses the North Carolina vessel possession limit of summer flounder shall offload any amount of that possession limit, except as described in subsection J of this section.

C. From the second Wednesday in March through May 7, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivisions 3 and 4 of this subsection and the amount of the legal North Carolina landing limit or trip limit.

2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 30-day period, with the first 30-day period beginning on the second Wednesday in March.

3. Land in Virginia more than a total of 7,500 pounds of Summer Flounder during the first 30-day period, with the first 30-day period beginning on the second Wednesday in March.

4. Land in Virginia more than a total of 5,000 pounds of Summer Flounder during the second 30-day period with the second 30-day period beginning on April 7.

Commissioner Bull opened the public hearing and there were no public comments. He stated that the matter was before the Commission for discussion or action.

Associate Member Kellum moved to accept the staff recommendations. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.

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- 13. PUBLIC HEARING:** Request to amend Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks," to modify commercial possession limits for Large Coastal Sharks and adjust the list of commercially permitted and prohibited sharks.

Lewis Gillingham, Director, Saltwater Fishing Tournament, gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record.

Mr. Gillingham explained that staff recommended reassigning blacknose to the list of commercially prohibited sharks and establishing a possession limit of 36 sharks for the Aggregated Large Coastal and Hammerhead group on January 1 of any year that may change throughout the year.

Commissioner Bull opened the hearing for public comments, pro or con. There were none. He stated the matter was before the Commission for discussion or action.

Associate Member Neill moved to accept the staff recommendation. Associate Member Kellum seconded the motion. The motion carried, 8-0. Chair voted yes.

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- 14. DISCUSSION:** Staff presentation to provide an update mainly on the recent workshop on Cow nose Ray.

Laura Dozier, Fisheries Management Specialist, gave the briefing of the information provided in the staff's evaluation with slides. Her comments are a part of the verbatim record.

Ms. Dozier stated that the Fisheries Management Advisory Committee suggested that the Commission seek information from the various clubs, utilize the social media, like Facebook, and through contacting the commercial and recreational fishermen asking them to report cownose ray activities.

Associate Member Erskine stated that he felt it was premature without any data or a fishery to develop a fishery management plan and he felt the Commission could postpone any further action for two years. He said to just use the internet to see what information

is out there, without a lot of staff time. He stated there were more valuable jobs that needed to be done.

Robert O'Reilly, Chief, Fisheries Management said it would not be difficult to identify the clubs and if there was an incident in Virginia, VMRC could say that they have been proactive. He said he agreed with a requirement to register. He noted that the Commission should give them direction about what they want to be done.

No further action was taken.

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15. DISCUSSION: Request approval of the 2016 Oyster Replenishment Plan and the associated procurement procedures.

Jim Wesson, Head, Conservation and Replenishment briefed the Commission on the proposed replenishment plan for 2016 with slides. He noted that the Shellfish Management Advisory Committee (SMAC) had reviewed the plan and approved it. His comments are a part of the verbatim record

Proposed 2016 Oyster Replenishment Plan and Associated Procurement Procedures:

FUNDING SOURCES: AMOUNT:

Non Federal

General Fund (GF)	\$2,000,000
Hampton Roads Sanitation District	\$100,000-\$200,000
Non-General Funds (NGF) Various Sources	\$ 180,000

Seed Transfer:

James River

The Benefits (\$) to Cost (\$) ratio for moving seed oysters with State funds for growout on public grounds is generally less than one, which is contrary to the recommendation of the BROP. The Conservation and Replenishment Department (CRD) program has moved a small amount of seed from the James River to the Potomac tributaries the last several years. Staff is recommending moving 10,000 bushels of James River seed oysters again in 2016. Half of this would go to the hand tong areas in the Coan River and half would go to hand tong areas in Yeocomico River. Spatset rarely occurs in these low salinity

growout areas, so the only way to have any harvest is by moving seed oysters. The cost for each bushel of seed to be harvested, transported, and planted in these areas will be at least \$9.00/bushel. Funds from Oyster Resource User Fees will be used for this project. (CRD Notice 16-01)

10,000 bushels of seed oysters @ \$9.00/bu. \$90,000 (NGF)

Rappahannock River

Ferry Bar in the Rappahannock River received an exceptionally large spatset in 2015. The density of oysters is so high on this small rock (578 spat/meter²) that staff recommends moving approximately 2,000 bushels of shell and oysters from this location to Waterview Ridge in Area 7. Waterview Ridge rarely receives a spatset, but oysters grow well at this location. Enough oysters will remain at Ferry Bar after removing these seed oysters to support the fishery in that location. Funds from Oyster Resources User Fees will be used for this project. (CRD Notice 16-02)

2,000 bushels of seed oysters \$3.00/bu. \$6,000 (NGF)

Piankatank River

In the Piankatank River, VMRC manages a very successful program to allow private industry a modest harvest of seed oysters each year (Figure 2). In this program, private leaseholders sign up for the amount of seed oysters that they would like to harvest from the public seed grounds, and they must replace two bushels of shell for each bushel of seed oysters taken. The total standing stocks of oysters in the Piankatank River have been relatively consistent over the past few years. Counts per bushel are relatively high (800 oysters/bushel). Staff recommends that 20,000 bushels of seed oysters be offered to the private industry in 2016. Participants taking seed oysters will replace two bushels of shell for each bushel of seed. (CRD Notice 16-03)

Shellplanting:

Bay and Tributaries:

Most of the harvest areas in the Chesapeake Bay and tributaries received a very light spatset in 2013 and 2014. This will result in a decline in market harvest at least from now through the 2016-2017 seasons. There was an excellent spatset this past summer on just about every area on the western shore, including all of the tributaries. Spatsets were poor in the Pocomoke Sound area and below average for a lot of tangier sound. Shells on public beds naturally degrade over time and lose their effectiveness as a substrate for oyster larval attachment. In most of the mid-salinity areas in Virginia, the half life of shells appears to be 3 to 4 years. Shells must be replaced regularly, and the CRD staff determines the areas that are in need of new shell from the results from the VIMS-VMRC

annual patent tong survey. All of the \$2 million appropriation for 2015 will be used for adding new shell to those areas in most need of shell. Funds for oyster restoration will never be enough to maintain the public beds at maximum productivity, but if the mean volume of shell observed in the fall survey does not fall below 5 liters per square meter, a reasonable degree of productivity can be maintained. In Table 1, there is a list of all of the areas and acreages of oyster beds that staff has determined to be in need of shell in 2016. In total, 1,300 acres of oyster beds need shell. Shell costs continue to increase, especially since 2010, and \$2 million in funds will not be sufficient to add shells to all of these areas. In Table 2, the areas that we will likely have funding to add shell this year are shown. To keep the prices as low as possible, staff will focus planting efforts in 2016 on areas in the York and Rappahannock Rivers and in Pocomoke and Tangier Sounds. VMRC-CRD will purchase as many house shells as possible for an established price of \$2.00 per bushel. Private individuals, the State of Maryland, and other oyster restoration partners in Virginia are offering to buy shells at values higher than \$2.00/bushel, so it is unknown how many house shells will be available. After purchasing all of the house shells that are available, the remaining appropriated General Funds will be used to dredge fossil shells for shell planting. VMRC intends to advertise with a Request for Proposal (RFP) for fossil shell dredging and planting to begin on June 15, 2016.

400 – 500 acres of oyster shell restoration
@ 1,000 bushels/acre @ \$2.50 - \$4.00/bushel = \$1,900,000 (GF)

Seaside of Eastern Shore:

Approximately 4 acres of harvest area will be planted with shells harvested from local shell deposits. (CRD Notice 16-04)

4 acres @ 10,000 bushels of shells/acre @ \$2.50/bushel = \$100,000 (GF)

Pocomoke Sound- Marshalls and Byrd Rocks:

Based on watermen's recommendations, two rocks in upper Pocomoke Sound have been planted with fossil shell for the past two years. In the past two years there has been almost no spatset in Pocomoke Sound. The shells on portions of these shell plants look fine, but in some areas, the shells are just under the surface layer of silt. Staff would like to delineate the best parts of these bars, and have local shell boats harvest some of the shells from the areas that are just under the surface and transport and replant these shells on the best portions of the bars. Staff intends to harvest about 10,000 bushels of shells from each area and relocate the shells.(CRD Notice 16-05).

20,000 bushels of silted shell harvested from Marshalls and Byrd rocks in Pocomoke Sound and relocated on the best parts of each bar @ \$2.00 = \$40,000 (NGF).

New Fossil Shell Dredging Location and Permit:

Since 2001, Virginia has been mining fossil oyster shells from sites in the James River near Tribell Shoal, in James City County. More than 11 million bushels of shell have been mined at this location, loaded on barges, and then transported and deployed on oyster beds throughout the Commonwealth. Thousands of acres of oyster habitat have been created and or improved using these shells. During this time period, the annual harvest of oysters has increased more than thirty-fold, from 20,000 bushels to over 650,000 bushels in 2015. The value of the oyster fishery today is more than \$65 million annually. However, the known shell deposits at the Tribell Shoal location are almost exhausted.

In the early 1960's, the State hired a company called Sothern Industries to locate potential fossil shell deposits in the Commonwealth. One large deposit was located and surveyed further downriver in the James River near the Newport News shipyard. We are seeking permits to begin harvesting these shell deposits in exactly the same way as has been conducted in the current location for the past 15 years. All of the equipment is the same, the time of the activity is the same (mid-June through early August), and the quantities harvested per year are the same, based on current funding. We anticipate dredging 25,000 – 40,000 cubic yards of fossil shell each year.

The Newport News shell deposit is in the vicinity of 36° 56' 58" – 76° 26' 24", generally two miles west of the I-664 Monitor-Merrimac Bridge tunnel and southwest of where Newport News shipyard in the James River (maps attached). The total area of the shell deposits is about 650 acres in water depths of 7 -15 ft MLW. The shell deposits are from one to three feet under the bottom surface. The shell deposit is mostly within Virginia Public Ground #2. Generally, less than 5 acres are dredged for shell in a given year.

The shell dredge and shell dredging process is the same as has been used to dredge fossil shells in Maryland and Virginia for more than 30 years. The cutter head dredge is equipped with a twenty inch discharge Ellicott pump powered by two 1125 HP diesel engines. A 900 HP hydraulic system powers the dredging functions. The dredge pumps the subsurface shell and sediment into a custom designed shell screening plant onboard the barge, and the equipment separates the shell into large shell and fines. The processing plant onboard consists of static screens, vibratory screens, and rotary washers to screen, wash, and grade the shell onto conveyors. The conveyors onboard the barge load the large shell onto barges positioned on the starboard side of the dredge, and the shell fines onto barges on the port side of the barge. An elephant-trunk discharge hose returns the wash water and fine sediment close to the bottom, as the shell is processed. The cutter head operation of this machine has been designed to work as slow as possible so that it does not break the shells into smaller pieces. The rotation of the blade is as slow as the process allows, and the swing of the cutter head arm is as slow as possible so that no shells are missed. The contractor is paid for only the shells harvested, so they constantly work to improve efficiency. The cutter head arm can be lowered to a maximum of 50 feet,

so with the water depths of 7-15' MLW at the site, there would be a maximum cut of around 50 ft' MLW. The barge has 4 elephant trunk discharge pipes--2 forward and 2 aft on the barge. The trunks extend under the barge, and return the sediments and fine bits of shell back into the excavated trench. The pipes feeding the trunks have doors over them that open and close, thereby allowing the regulation of the flow through each pipe. In the beginning of the dredging process, the operator normally discharges the majority through the bow pipes, allowing the material to be evenly discharged back into the excavated area. If the material was discharged over the stern, the material would "wind row" to very shallow levels because the machine pivots in an arc as the dredge works. The pivotal arc is large at the bow but very small at the stern. As the bow moves back and forth in a greater arc, the material is placed more evenly in the excavated site. After the dredge has advanced in the cut and has excavated to the permitted depth, the stern pipes are opened somewhat which creates a less uniform profile to the excavated bottom. The less uniform bottom and the opening of four discharge pipes have been found to reduce the velocity of the discharge and to lessen turbidity. It also creates a more natural and functional bottom in the final dredge cut. This four pipe discharge system is stipulated in the permit. The amount of material discharged back into the cut depends on the density of the shell deposit, and the percentage of unsuitable material at each site. Based on the experience dredging shells in Maryland for 30 years, and the experience from the 15 years of operation at Tribell Shoals in the James River, it tends to be 40 to 50% of the material. It is measured by setting the cutting head to a maximum depth of 50 feet, and then measuring the cut depth after the process is complete. Many of the deposits do not go to the 50' maximum depth of the cutting head, and the operator stops going deeper when the deposit ends. The Virginia Marine Resources Commission contracted the Virginia Institute of Marine Science in 2001 to monitor and characterize the persistence of the dredge plume in the water column, when the dredge was working and after it stopped. This report showed that the dredge plume was minimally detected during this time of year, when the river is relatively turbid naturally. The dredge plume also had mostly become undetectable within 4 to 5 kilometers.

The operator generally positions the dredge so that it is working with the tide. We therefore anticipate that we will begin harvesting shell on the most upriver (north) end of the dredge site and work downriver. When barges are full, they are detached and removed by a tug boat, and replaced with an empty barge. The dredging activity normally has a 50-60% recovery of shell, so if they recover 25,000 cubic yards of shell, then they would actually dredge 50,000 cubic yards of sediment. By using the elephant trunk discharge hose, most of the sand and silt is return right back in the cut as they are working.

The shell processing plant onboard the dredge washes the shells during recovery, so almost no mud or silt goes overboard at the planting sites.

Alternative Substrate:

Staff continues to work with various partners on projects using alternative substrate for oyster restoration of sanctuary areas. A large project in the Piankatank River, under Army Corp of Engineers (ACOE) contracting, should be implemented this year. Staff will also be working with The Nature Conservancy (TNC) and Chesapeake Bay Foundation (CBF) to add some reef balls and broken concrete on the sanctuary reef at Fishing Point. Staff will also be working with CBF on the expansion of a reef at Tanners Point in the Lafayette River using reef balls.

The Hampton Roads Sanitation District (HRSD) will be making changes to an outfall in York County that will impact the Shellfish Condemnation Areas that are adjacent to it. They will do mitigation projects required by their permit and one of these projects is a small oyster reef on private ground in the lower York River. Staff is assisting with the design and will likely contract and oversee the project using oyster industry shell planting boats (CRD Notice 16-6).

One acre oyster reef in the lower York River using either clean crushed concrete or crushed granite:

\$100,000-\$200,000 (NGF)

PROCUREMENT ACTIVITY FOR THE 2016 OYSTER REPLENISHMENT PROGRAM:

General:

Certain aspects of the procurement of seed, shell, and replenishment services differ from the Commonwealth's standard procurement procedures, and therefore must be documented and approved by the Commission. The Commission will be exercising this option under Section 28.2-550 of the Code of Virginia.

This section of the Code states that:

The Commission, when it makes a determination in writing that competitive bidding or competitive negotiation is not feasible or fiscally advantageous to the Commonwealth, may authorize other methods of purchasing and contracting for seed oysters, house shells, reef shells, shell bed turning, and other goods and services for oyster ground replenishment, which are in the best interest of the Commonwealth and which are fair and impartial to suppliers. It may establish pricing for its award and purchases; use selection methods by lot; and open, close, and revise its purchases according to changing conditions of the natural resources, markets, and sources of supply.

For the harvest and movement of wild seed oysters, shell bed cleaning, and excavated shells, the Commission will set the per bushel price to be paid. For the production of

oyster eyed larvae, the Commission will set a price per million larvae. Public notices will be posted, and all interested parties may apply. Selection of contractors will be done using the lottery method.

The Commission will also set the price for the purchase of house shells. The prices are currently estimated to be \$1.50 per bushel for conch shells, \$1.00 per bushel for clam shells, and \$2.00 per bushel of oyster shells at the shucking house. Loading, transporting, and planting costs will be set by the Commission based on handling costs, the type of activity, and the distance for transporting to the activity sites. Letters were sent to all licensed shucking houses inquiring as to the availability of shell. All houses that responded positively will provide shells to the 2015 program until the total dollar limit for this activity is met. If funds are sufficient, all available house shells in the state will be purchased for the Oyster Replenishment Program. If funding sources do not allow the purchase of the entire shell market, house shell contracts and/or contract amounts will be based on geographical location, mobilization cost, and shell planting locations, which provide the greatest benefit to the oyster industry and to the Commonwealth.

The Commission will also set the price per ton for ground concrete or granite stone that will be used as an alternative cultch material. Loading, transporting, and planting costs for this material will be set by the Commission based on handling costs, the type of activity, and the distance for transporting to the activity sites. Public Notices will be posted and all interested parties may apply. Contractors will be selected by lottery, or allowed to provide the material until the project is completed.

The agency anticipates that all other 2016 oyster replenishment activities will be completed using the Invitation for Bid or Request for Proposal process in accordance with the Virginia Public Procurement Act.

If the conditions of the oyster resource changes, or if the Conservation and Replenishment Department Head encounters unanticipated/unscheduled situations with the Oyster Replenishment Program, planned procurement activities may be changed, and one or more of the alternative methods of procurement listed above may be utilized to facilitate the completion of the 2016 Replenishment Program.

There were no public comments.

Staff recommended approval of the proposed 2016 Oyster Replenishment Plan as well as the Associated Procurement Procedures.

Associate Member Erskine moved to approve the 2016 plan as well as the procurements procedures. Associate Member Minor seconded the motion. The motion carried, 8-0. Chair voted yes.

Effort Control:

Mr. Wesson explained that the Shellfish Management Advisory Committee (SMAC) had adopted a motion to request that the Commission put a freeze on the sale of any new oyster resource for all gear user fees while the committee studies methods of effort control to be proposed for the public oyster fishery at the August 2016 Commission meeting. They had indicated a sunset date be set of August 31, 2016. A copy of the draft emergency regulation was given to the Board.

After much discussion, Associate Member Tankard moved to approve the emergency regulation, effective February 23, 2016 and to advertise for a public hearing at the next month’s meeting. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.

Deep Rock:

Associate Member Kellum explained that there were about twelve boats working the area with patent tongs and they had called her to request on their behalf that the Commission extend the public harvest season for five to ten additional days. She said this request was being made due to the weather.

Mr. Wesson explained that he had spoken with the original seven watermen who had worked the area for many years and they did not want an extension of the season. He noted that there had been a increase in the number of patent tong licenses from seven to 44 and there had already been a three month season.

It was noted that none of the patent tong harvesters were present.

After further discussion, Associate Member Kellum moved to extend the season for five additional days, due to the weather. Associate Member Minor seconded the motion. The motion failed 3-5. Chair voted no. Associate Members Zydron, Neill, Tankard, and Erskine all voted no.

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- 16. **REQUEST FOR A MARCH PUBLIC HEARING:** To establish the commercial smoothound shark quota and filleting at sea provisions and other specifications established by the ASMFC.

Robert O’Reilly, Chief, Fisheries Management, gave the briefing of the information provided in the staff’s evaluation. His comments are a part of the verbatim record.

The Atlantic States Marine Fisheries Commission’s Coastal Sharks Management Board’s action will require the establishment of a 922,030 pound commercial quota in Regulation

4 VAC 20-490-10 et seq., "Pertaining to Sharks," for 2016. Virginia has the largest share, at 34.8%, followed by NC at 28.6%. Staff requested approval for a March 2016 public hearing at the next month's meeting to consider adoption of a 922,030 pound commercial smoothhound quota for 2016.

Associate Member Erskine moved to accept the staff recommendation for a public hearing at next month's meeting. Associate Member Neill seconded the motion. The motion carried, 8-0. Chair voted yes.

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There being no further business, the meeting was adjourned at approximately 4:59 p.m. The next regular Commission meeting will be Tuesday, March 22, 2016.

John M. R. Bull, Commissioner

Katherine Leonard, Recording Secretary