

## MINUTES

## COMMISSION MEETING

July 24, 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
Wayne France	
Ken Neill, III	
John Tankard III	Associate Members
John Zydron Sr.	
James E. Minor III	
Heather Lusk	
Kelci Block	Assistant Attorney General
Jamie Hogge	Recording Secretary
Dave Lego	Bs. Systems Specialist
Todd Sperling	Bs. Systems Manager
Robert O'Reilly	Chief, Fisheries Mgmt.
Pat Geer	Deputy Chief, Fisheries Mgmt.
Andrew Button	Head, Conservation and Replenishment
Alicia Nelson	Coordinator, RFAB/CFAB
Stephanie Iverson	Fisheries Mgmt. Manager, Sr.
Jill Ramsey	Fisheries Mgmt. Specialist
Ryan Jiorle	Fisheries Mgmt. Specialist
Alex Aspinwall	Fisheries Mgmt. Specialist
Adam Kenyon	Biological Sampling Program Manager
Chris Davis	Fisheries Mgmt. Specialist
Lewis Gillingham	Director, SWFT
Nancy McElligott	Fisheries Mgmt. Specialist
Jennifer Farmer	Regulatory Coordinator
Sara Blachman	Fisheries Mgmt. Specialist
Anna-Mai Christmas	Fisheries Mgmt. Specialist

**Commission Meeting**

Rick Lauderman  
Warner Rhodes  
Stephan Bennis  
Henry Reichle  
Jim Vollmer  
Austin Brown  
Case Springfield  
Alexander Tucker  
Brian Elliott

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

Randy Owen  
Jeff Madden  
Justin Worrell  
Jay Woodward  
Mark Eversole  
Rachael Peabody  
Mike Johnson  
Allison Norris  
Hank Badger  
Ben Stagg

Deputy Chief, Habitat Management  
Environmental Engineer, Sr.  
Environmental Engineer, Sr.  
Environmental Engineer, Sr.  
Environmental Engineer, Sr.  
Environmental Engineer, Sr.  
Environmental Engineer, Sr.  
Environmental Engineer, Sr.  
Environmental Engineer, Sr.  
Dir., Shellfish Aquaculture, Leasing  
and Mapping  
Surveyor, Engineering/Surveying

Daniel Faggert

Virginia Institute of Marine Science (VIMS):

Lyle Varnell

Emily Hein

Others present:

Brad Newcerub  
Jim Lang  
Joe Pollard  
Kevin Farmer  
Kenneth Hogge  
Bob Belcher  
Bri Eberline  
Michael Bru  
C. Clemerb  
and others.

Bob Fallow  
Rowan McConville  
Bubba Saunders  
Lynn Buckley  
Kim Huskey  
Jackie Maguire  
S. Johnson  
Brian Fletcher  
Shawna Moore

Chris Schante  
Mike Oestling  
Michelle Farmer  
Robert Buckley  
Shawn Green  
Laura Mausolf  
Rob Johnson  
S. Fletcher  
Jesse Marsh

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Commissioner Bowman called the meeting to order at approximately 9:34 a.m. Associate Members Everett and Ballard were absent.

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Commissioner Bowman led the pledge and by request of Commissioner Bowman, Associate Member Tankard said the invocation.

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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 Zydron moved to approve the agenda as presented. Associate Member France seconded the motion. The motion carried, 6-0. Chair voted yes. Associate Member Minor was not present during vote.**

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**MINUTES:** Commissioner Bowman asked if there were any changes or corrections to be made to the June 24, 2018 Commission meeting minutes.

**Associate Member Zydron moved to approve the minutes as presented. Associate Member Neill seconded the motion. The motion carried, 6-0. Chair voted yes. Associate Member Minor was not present during vote.**

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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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At the request of Commissioner Bowman, Hank Badger, Environmental Engineer, Sr., introduced Wallace Cooley, the new surveyor in the Habitat Department.

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**2. PERMITS** (Projects over \$500,000.00 with no objections and with staff recommendation for approval). There were no cases to be heard.

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**3. CONSENT AGENDA ITEMS.**

**3A. VIRGINIA ELECTRIC AND POWER COMPANY, #18-0770,** requests authorization to retain a 7.2 kV electrical transmission line installed by directional bore method beneath approximately 48 linear feet of Buck Mountain Creek near Allen Farm Lane in Albemarle County. The applicant has agreed to pay a \$1,000.00 civil charge and triple permit fees and royalties totaling \$732.00 in lieu of further enforcement action.

Randy Owen, Deputy Chief, Habitat Management, reviewed the consent item for the Board Members. Mr. Owen’s comments are a part of the verbatim record.

There were no public comments.

**Associate Member Neill made a motion to move to approve the consent agreement to pay the triple permit fee and royalties but wave the civil penalty. Associate Member Tankard seconded the motion. The motion carried 7-0. Chair voted yes.**

Royalty Fee: (48 c.f. @ 3.00/lf tripled)	\$ 432.00
Fees	\$ 300.00
Total Fees	\$ 732.00

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

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**5. FREDERICK COUNTY SANITATION AUTHORITY, #17-1216,** requests authorization to install an eight (8) MGD raw water intake structure in Opequon Creek near Brucetown, associated with the Frederick County Water Supply Project. The project is protested by an adjacent property owner on the creek.

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 explained that the water intake structure that is to be located over State-owned submerged lands will be an 84-foot long, 6-port, intake pipe with a bedload debris deflector, and will be installed within a “portadam” cofferdam structure such that all work within the stream will be done in the dry. A total of 520 cubic yards of creek bed material will be removed from a 2,000 square foot area for installation of the structure. The intake

ports will be equipped with 1 millimeter, wedge-wire, half-barrel screens and the intake velocity will be a maximum of 0.25 feet per second (fps), both of which are designed to minimize entrainment and impingement of aquatic life in the creek.

Accordingly, after evaluating the merits of the project and after considering all of the factors contained in §28.2-1205(A) of the Code of Virginia, staff recommends approval of the project as proposed with an in-stream time-of-year restriction from October 1 through March 31 to protect State threatened wood turtles, the implementation of our standard erosion and sediment control measures, and the restoration of the creek bed and bank to their natural and stable conditions upon completion of the project. Because this is a county sponsored project, staff does not recommend a royalty as counties are exempt by Code.

Robert Belcher, applicant, was sworn and available to answer any questions. His comments are a part of the verbatim record. There were no questions.

Shawna Moore, DEQ representative was sworn. She explained the changes in the permit, which would not affect the Commission in making their decision. Her comments are a part of the verbatim record.

No one else spoke in support or opposition of the project.

The matter was before the Commission for discussion and action.

**Associate Member Tankard made a motion to move to approve staff recommendation. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.**

Fees	\$ 100.00
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- 6. **VIRGINIA ELECTRIC AND POWER COMPANY, #18-0353**, requests authorization to cross the Rappahannock River, Flat Run, Mountain Run, Sumerduck Run, Cedar Run, the Rapidan River, and South Anna Creek with a double circuit, 230kV/115kV electric transmission line, suspended between 31 and 73 feet above Ordinary High Water (OHW) and within the existing right-of-way, as part of the Remington to Gordonsville Transmission Project in Fauquier, Culpeper, Orange, and Albemarle Counties. The Rappahannock River crossing is protested by an adjacent property owner on the river.

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 explained the proposed “Remington to Gordonsville Transmission” project is designed to resolve reliability issues in the Piedmont region west of Interstate 95 and east of the Shenandoah National Park. The work consists of the wreck and rebuild of three (3) existing 115kV transmission lines for double circuit 230 kV/115kV transmission lines in Fauquier, Culpeper, Orange, and Albemarle Counties. The two new circuits will be combined on single monopoles, which will be erected on the upland along the existing Right of Way (ROW) and within close proximity to existing towers. The project will require temporary timber bridges for construction access, and all stream and non-tidal wetland areas are to be restored to pre-existing conditions upon completion of the work.

The proposed rebuild of the power lines in the area appears to be necessary and will result in no direct impacts to State-owned submerged lands within the jurisdiction of the Commission. All waterways are to be spanned entirely, suspended above the waterways from towers on the adjacent areas of private upland property. All work is to be done within existing ROW. Staff believes that the protestant’s concerns are more of a legal property access issue and outside the purview of this agency.

Accordingly, after evaluating the merits of the project and after considering all of the factors contained in §28.2-1205(A) of the Code of Virginia, staff recommends approval of the project as proposed with a royalty in the amount of \$2,514.00 for the crossing of two (2) new transmission line circuits over a total of 419 linear feet of State-owned submerged land in the seven (7) jurisdictional waterways at a rate of \$3.00 per linear foot, in keeping with past Commission policy and guidance.

Virginia Electric and Power Company representatives were present but chose not to comment.

The matter was before the Commission for discussion and action.

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

Royalties: (Encroachment over 419 ft(2) @ \$3.00/ft):	\$ 2,514.00
Fees:	\$ 100.00
Total Fees:	\$ 2,614.00

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**7. SUN COMMUNITIES INC. and DELTA MARINE CONSTRUCTION.**

Consideration of appropriate civil charges for the unauthorized dredging of 100 cubic yards of State-owned subaqueous material along the Chesapeake Bay at 846 Sand Bank Road in Mathews County.

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

Mr. Johnson explained in detail the correspondences between Staff and Sun Communities beginning on May 23, 2016. Staff received an email from the campground manager at the time, requesting a modification to the existing permit to allow for additional dredging to maintain the channel. Staff sent emails to the campground manager on May 24 and June 16, 2016, requesting additional information. When no reply was received from the campground manager, a letter was sent on September 21, 2016, requesting additional information and stating that if a response was not received within 30 days, that their modification request would be inactivated. No response to this request was received from the applicant and on October 21, 2016, the request was inactivated.

On July 14, 2017, an email was received from a new campground site manager stating that maintenance dredging had been completed in March of 2017. Staff met with the new campground site manager at the project site on July 28, 2017, and determined that dredging had occurred on State-owned subaqueous bottom without the required VMRC authorization.

On August 4, 2017, staff sent a Sworn Complaint and Notice to Comply to Sun Communities regarding the violation and requesting additional information regarding the unauthorized dredging. On August 31, 2017, Sun Communities submitted the additional information requested in the Notice to Comply. In their correspondence, they indicated that 100 cubic yards of material was dredged from a 55-foot by 25-foot area to depths of minus three and a half (-3.5) feet at mean low water by Delta Marine Construction during the dates of March 22 through March 25, 2017. The work was done using a long reach excavator from an upland spit of land with dewatering and disposal on site.

After reviewing the Guidance for Civil Charges pursuant to Section 28.2-1213 of the Code of Virginia, revised by the Commission on March 27, 2012, staff determined that a civil charge should be assessed to Sun Communities Inc. and Delta Marine Construction in the amount of \$9,000.00 each for the unauthorized dredging. The criteria for this assessment was based upon a major degree of non-compliance and moderate impacts. The major degree of non-compliance is based upon the fact that Sun Communities was informed that a permit modification was required. The criteria for major degree of non-compliance for Delta Marine Construction was based upon their having extensive marine contracting experience and understanding that permits are required for projects impacting subaqueous bottom.

Additionally, their contract for the scope of work indicated that they would obtain required permits under the JPA process for \$3,750.00 and dredge 1,500 cubic yards of subaqueous bottom for \$105,750.00. The finding of moderate impact was based upon the criteria that the dredge area was 1,375 square feet and that suspended sediments from the dredging operation would have some impacts on natural resources including the submerged aquatic resources in the area.

Staff recommends that the Commission assess a civil charge of \$9,000.00 each to Sun Communities Inc. and Delta Marine Construction for the unauthorized dredging of 100 cubic yards of State-owned subaqueous bottom based upon a finding of a major degree of non-compliance and a moderate degree of impact. If the two parties do not agree to pay the civil charge amount that the Commission decides to assess, or fails to pay it within 30 days of the date of this meeting, then staff recommends referral of this matter to the Office of the Attorney General to seek civil penalties pursuant to Section 28.2-1213 of the Code of Virginia.

Jackie Maquire, Regional Vice President for Sun Communities INC. was present and sworn in. Her comments are a part of the verbatim record.

Ms. Maquire apologized for the situation that they encountered and explained the steps taken by Senior Management to resolve the issue and to be in compliance. She also indicated that the situation helped to identify areas within the company that needed improving and while also insuring that Senior Management is aware of the status with permitting.

Brian Fletcher, manager and representative of Delta Marine was present and sworn in. His comments are a part of the verbatim record.

Mr. Fletcher explained that the contract did not state permit responsibilities and he was told by the previous campground site manager that the permits were obtained. Mr. Fletcher also stated that the changes that were made to the original contract were done through email correspondences.

Charlotte Fletcher, owner of Delta Marine, was sworn in and her comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Kelci Block, Assistant Attorney General, provided legal advice pursuant to §28.2-1213 (B) and §28.2-1213 (A) of the Code of Virginia. Her comments are a part of the verbatim record.



Both Sun Communities and Delta Marine representatives agreed to pay the civil penalty of \$9,000 each.

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

Civil Fees: (times 2)	\$ 9,000.00 each
Total Fees:	\$ 18,000.00

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- 8. SHAWN P. GREEN, Oyster Planting Ground Application #2014-245**, requests authorization to lease approximately 114 acres within the Southwest Branch of the Severn River in Gloucester County. The application is protested by a number of local residents in the area.

Ben Stagg, Dir., Shellfish Aquaculture, Leasing and Mapping, gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Mr. Stagg’s comments are a part of the verbatim record.

Mr. Stagg explained the application in detail, to include that the application has been modified to 90.84 acres, which excludes the portion of the lease that is in restricted waters. This modification is less than the original application. Mr. Stagg also explained that each protested application is evaluated on a case by case basis considering all comments received concerning the area being requested. In this case, while the applicant would have the right to place cages upon a lease, if granted, he has indicated he does not intend to deploy such gear. Additionally, placement of any such gear must comply with current VMRC regulations regarding navigation impacts. The use of the requested area for traditional on bottom planting and cultivation should not impact navigation within the area requested. Most of the lease corners are not in main navigation areas and staff has attempted to address any perceived conflicts with private pier use in the area.

While staff understands the concerns about potential impacts to navigation and access to private piers, the requested area has been modified in an attempt to address these issues to the greatest extent possible and the applicant has indicated he plans to use traditional on bottom shellfish cultivation methods for the requested area. Additionally, use of the area for traditional bottom shellfish cultivation should have negligible impact on wildlife in the area and may provide better water quality within the waterbody. Staff recommends approval of a modified area containing 90.84 acres.

Shawn Green, applicant, was present and sworn in. His comments are a part of the verbatim record.

Mr. Green explained where the hard bottom areas are located on the lease and also indicated that most of the lease is soft bottom. He also stated that he does not have any other leased grounds. He agreed to modify the original application to exclude the portion of the lease that is in restricted water. Mr. Green also stated that his intentions for the lease is for conventional planting of shells.

Kenneth Hogge was sworn in and spoke in support of the lease application. Mr. Hogge's comments are a part of the verbatim record. Mr. Hogge indicated that the lease will not impact the public.

There were four (4) people that were sworn in and spoke in opposition of the oyster ground lease application. Their comments are a part of the verbatim record.

Those that spoke in opposition had concerns of navigation, the shift in silt, loss of seagrass, decrease in property value, and the loss of property due to erosion. The protestants additionally commented on their view of the poles required to mark the lease, making their properties less attractive to buyers and their concerns if bottom cages are placed on the lease.

The matter was before the Commission for discussion and action.

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

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**9. PUBLIC COMMENTS.** There was no public comment.

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**10. LICENSE STATUS REVIEW.**

**(10-1) – Richard Stockwell (MRC ID# 008928):** – was not present.

Officer Brian Elliot, Marine Police Officer, was sworn in but did not provide a background of the violation due to the licensee not being present.

**April 13, 2018, Possession of Unculled Oyster (10 Quarts): 4 VAC 20-260-40**

**Disposition:**

May 21, 2018, Newport News General District Court

Fine: \$100.00

Officer Case Springfield, Marine Police Officer, was sworn in but did not provide a background of the violation due to the licensee not being present.

**February 21, 2018, Possession of Unculled Oyster (8 Quarts): 4 VAC 20-260-40 & §28.2-201**

**Disposition:**

March 26, 2018, Newport News General District Court

Fine: \$150.00

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

Jennifer Farmer, Regulatory Coordinator, explained to the Commission the sanction guidelines, with PowerPoint slides. Ms. Farmer's comments are a part of the verbatim record.

Mr. Richard Stockwell, a commercial fisherman registration licensee, was convicted on May 21, 2018 for one count of possessing uncultured oysters (10 quarts) (4VAC 20-260-40) and on March 26, 2018 for one count of possessing uncultured oysters (8 quarts) (4 VAC 20-260-40) (§28.2-201).

The Commission's guideline for sanctions specify that two conviction of possessing at least 50% over the tolerance of undersized shellfish, 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 guidelines suggest to the Commission to revoke Mr. Stockwell's Commission-issued shellfish licenses for a period of six months from the date of this Commission meeting, July 24, 2018 through January 23, 2019. The Code of Virginia also allows that the Commission prohibit the issuance, reissuance, and renewal of any of Mr. Stockwell's shellfish licenses during this revocation period.

**Associate Member Zydron made a motion to approve the staff guideline recommendation for 6 month revocation. Associate Member France seconded the motion. The motion carried, 7-0. Chair voted yes.**

**(10-2) – Austen Vanzant (MRC ID# 009330):** – was present and sworn in. Mr. Vanzant's comments are a part of the verbatim record.

Officer Brian Elliott, 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.

**April 13, 2018, Possession of Unculled Oyster (10 Quarts): 4 VAC 20-260-40**

**Disposition:**

May 21, 2018, Newport News General District Court

Fine: \$100.00

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.

**February 21, 2018, Possession of Unculled Oyster (8 Quarts): 4 VAC 20-260-40 & §28.2-201**

**Disposition:**

March 26, 2018, Newport News General District Court

Fine: \$150.00

Mr. Austen Vanzant had an opportunity to explain to the Commission the violations and answer questions that the Associate Members asked.

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

Mr. Austen Vanzant, a commercial fisherman registration licensee, was convicted on May 21, 2018 for one count of possessing uncultured oysters (10 quarts) (4 VAC 20-260-40) and on March 26, 2018 for one count of possessing uncultured oysters (8 quarts) (4VAC 20-260-40) (§28.2-201).

The Commission's guideline for sanctions specify that two conviction of possessing at least 50% over the tolerance of undersized shellfish, 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 guidelines suggest to the Commission to revoke Mr. Vanzant's Commission-issued shellfish licenses for a period of six months from the date of this Commission meeting, July 24, 2018 through January 23, 2019. The Code of Virginia also allows that the Commission prohibit the issuance, reissuance, and renewal of any of Mr. Vanzant's shellfish licenses during this revocation period.

**Associate Member France made a motion for 2 year probation. Associate Member Minor seconded the motion. The motion carried, 7-0. Chair voted yes.**

**(10-3) – Jesse Marsh (MRC ID# 4330):** - was present and sworn in. Mr. Marsh's comments are a part of the verbatim record.

Officer Alexander Tucker, 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 13, 2018, Theft of Oysters: §28.2-527**

**Disposition:**

April 23, 2018, Accomack General District Court

Fine: \$275.00

**January 13, 2018, No Aquaculture Harvester's Permit: 4VAC 20-160-25 (C)**

**Disposition:**

April 23, 2018, Accomack General District Court

Fine: \$100.00

Mr. Jesse Marsh had an opportunity to explain to the Commission the violations and answer questions that the Associate Members asked.

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

Mr. Jesse Marsh, a commercial fisherman registration licensee, was convicted on April 23, 2018 for one count of theft of oysters (§28.2-527) and on April 23, 2018 for one count of having no aquaculture harvester's permit (4VAC 20-160-25 (C)).

The Commission's guidelines for sanctions specify that one conviction of illegally harvesting oysters or clams from private (leased) grounds, within a two-year period, should result in at least a three year probation. In accordance with §28.2-232 of the Code of Virginia, the guidelines suggest to the Commission to place Mr. Marsh on probation for a period of three years from the date of this Commission, July 24, 2018 through July 23, 2021. Any failure on Mr. Marsh's part to obey any of the laws or regulations relating to the Marine Resources of the Commonwealth during the three-year probation would result in Mr. Marsh appearing before the Commission for a hearing on a license revocation.

**Associate Member Zydron made a motion to revoke the licenses for 1 year. Associate Member Neill seconded the motion. The motion carried, 5-1-1. Chair voted yes. Associate Member Tankard voted no. Associate Member Lusk abstained.**

**(10-4) – Joseph Jett (MRC ID# 3338):** - was present and sworn in. Mr. Jett's comments are a 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.

**November 2, 2017, Possession of Unculled Oyster (8 Quarts): 4 VAC 20-260-50 & §28.2-201**

**Disposition:**

March 19, 2018, Middlesex General District Court

Fine: \$200.00

**January 19, 2018, Possession of Unculled Oyster: 4 VAC 20-260-40 & §28.2-201**

**Disposition:**

February 8, 2018, Gloucester General District Court

Fine: \$100.00

Mr. Joseph Jett had an opportunity to explain to the Commission the violations and answer questions that the Associate Members asked.

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

Mr. Joseph K. Jett, a commercial fisherman registration licensee, was convicted on March 19, 2018 for one count of having in possession uncultured oysters approximately 8 quarts (4VAC20-260-50) (§28.2-201) and on February 8, 2017 for one count of possessing uncultured oysters (4VAC20-260-40) (§28.2-201).

The Commission's guidelines for sanctions specify that two convictions of possessing at least 50% over the tolerance of undersized shellfish, within a two-year period, should result in a six month revocation of all shellfish licenses. Technically, the guidelines don't exactly apply in this case, as Mr. Jett's conviction on February 8, 2017 did not involve a culling overage greater than 50%. He had 5 quarts. However, the Law Enforcement Division indicates the two new violations were committed in a short period of time and revocation is warranted. In accordance with §28.2-232 of the Code of Virginia, the guidelines suggest to the Commission to revoke Mr. Jett's Commission-issued shellfish licenses for a period of six months from the date of this Commission meeting, July 24, 2018 through January 23, 2019. The Code of Virginia also allows that the Commission prohibit the issuance, reissuance, and renewal of any of Mr. Jett's shellfish licenses during this revocation period.

**Associate Member France made a motion for 2 year probation. Associate Member Minor seconded the motion. The motion carried, 6-1. Chair voted yes. Associate Member Neill voted no.**

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- 11. REQUEST FOR PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest," to establish the 2018-2019 areas of public harvest, public oyster harvest seasons, and management measures.

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

**Commission Meeting**

Mr. Button provided a detailed update on the progress of the 2018 Oyster Replenishment Program.

Mr. Button requests advertising for an August public hearing to amend Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest," to establish the 2018-2019 areas of public harvest, public oyster harvest seasons, and management measures.

**Associate Member Tankard made a motion to accept the staff recommendation to advertise for an August public hearing. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.**

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**12. REQUEST FOR PUBLIC HEARING:** Proposal to amend Chapters 4 VAC 20-252-10 et seq., "Pertaining to the Taking of Striped Bass;" 4 VAC 20-280-10 et seq., "Pertaining to Speckled Trout and Red Drum;" 4 VAC 20-320-10 et seq., "Pertaining to the Taking of Black Drum;" Chapter 4 VAC 20-380-10 et seq., "Pertaining to Grey Trout (Weakfish);" 4 VAC 20-500-10 et seq., "Pertaining to Eels;" 4 VAC 20-510-10 et seq., "Pertaining to Amberjack and Cobia;" 4 VAC 20-540-10 et seq., "Pertaining to Spanish and King Mackerel;" 4 VAC 20-620-10 et seq., "Pertaining to Summer Flounder;" 4 VAC 20-910-10 et seq., "Pertaining to Scup (Porgy);" 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass;" and, 4 VAC 20-960-10 et seq., "Pertaining to Tautog," and to establish Chapter 4 VAC 20-1340-10 et seq., "Pertaining to the Measuring of Finfish," to establish a uniform definition and process for determining the total length of fish species. **(Item #12 was heard before Item #10)**

Adam Kenyon, Biological Sampling Program Manager, presented the information provided in the staff's evaluation. Mr. Kenyon's comments are a part of the verbatim record.

Mr. Kenyon recommends the Commission approve advertising conformity in total length measurements and descriptions in all regulations and the establishment of a uniform definition and process for measuring finfish for an August public hearing.

**Associate Member Zydron made a motion to accept the staff recommendation to advertise for an August public hearing. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.**



**Commission Meeting**

**18130  
July 24, 2018**

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There being no further business, the meeting was adjourned at approximately 1:11 p.m.  
The next Commission meeting will be Tuesday, August 28, 2018.

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Steven G. Bowman, Commissioner

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Jamie Hogge, Recording Secretary