

MINUTES

Commission Meeting

September 25, 2012

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:

J. Carter Fox	
J. Bryan Plumlee	
Richard B. Robins, Jr.	Associate Members
J. Edward Tankard, III	
Whitt G. Sessoms, III	
Paul Kugelmann, Jr.	Assistant Attorney General
John Bull	Director, Public Relations
Linda Farris	Bs. Systems Specialist, MIS
Katherine V. Leonard	Recording Secretary
Rob O'Reilly	Chief, Fisheries Management
Joe Grist	Deputy Chief, Fisheries Mgmt.
Joe Cimino	Head, Plans and Statistics
Stephanie Iverson	Supervisor, Mandatory Harvest Reporting Program
Renee Hoover	Fisheries Mgmt. Specialist
Alicia Nelson	Fisheries Mgmt. Specialist
Adam Kenyon	Fisheries Mgmt. Specialist
Lewis Gillingham	Dir., Saltwater Fishing Tournament
Warner Rhodes	Deputy Chief, Law Enforcement
John Richardson	Marine Police Officer
Matthew Dize	Marine Police Officer
Tony Watkinson	Chief, Habitat Management
Chip Neikirk	Deputy Chief, Habitat Mgmt.
Jeff Madden	Environmental Engineer, Sr.
Jay Woodward	Environmental Engineer, Sr.
Ben Stagg	Environmental Engineer, Sr.
Justin Worrell	Environmental Engineer, Sr.
Randy Owen	Environmental Engineer, Sr.
Hank Badger	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Justine Woodward	Environmental Engineer, Sr.
Juliette Giordano	Environmental Engineer, Sr.
Bradley Reams	Project Compliance Tech

Commission Meeting

**16820
September 25, 2012**

Virginia Institute of Marine Science (VIMS):

Lyle Varnell

Others present:

John Daniel	Wayne Webster	Christine Atkinson
Ken Abrams	Eric Tucker	Michael Kues
Geanie Henley	John S. Henley	David Turney
Warren Hottle	George Bott	Ken Knull
Karen Knull	Charlie Costello	Anne Costello
Jack H. Blaine	Teri Nadal	Rita Theisen
Robert S. Magruder	Wiley Wright	Warren Ryan
Karen Patterson	John Hall	Rebecca Francese
Ellen Dugan	Joel Dugan	Wayne Bishop
Mike McCartley	Lee Risanberg	Gale Madsen
Anker Madsen	Dan McGhee	David Fick
LeeAnn Fick	Roger Hathaway	Sidney Rice
Bob Innes	Marian Riggs	Lloyd Riggs
Claudia Bagwell	R. Cary Gibson	Brent Weisiger
Robert Grasty	Mike Shackelford	Kim Huskey

and others.

* * * * *

Associate Member Robins explained that Commissioner Travelstead was called away for a family emergency and in his absence he would be serving as chair for this meeting. Associate Members Laine, Palmer, and Schick were all absent. Associate Member Robins stated that the five members present represented a quorum and they could proceed with the meeting.

The meeting was convened at approximately 9:30 a.m.

* * * * *

At the request of Associate Member Robins, Associate Member Fox gave the invocation; and Tony Watkinson, Chief of Habitat Management led the pledge of allegiance

* * * * *

Associate Member Robins, at this time, swore in the VMRC staff and VIMS staff that would be speaking or presenting testimony during the meeting.

APPROVAL OF AGENDA: Associate Member Robins asked if there were any changes from the Board members or staff. Rob O'Reilly, Chief, Fisheries Management explained that Dr. Bob Orth of VIMS had requested that Item 16, Status of SAV, be pulled and would be heard at the next meeting.

Associate Member Robins asked for a motion for approval of the agenda, as amended.

Associate Member Plumlee moved to approve the agenda, as amended. Associate Member Tankard seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

MINUTES: Associate Member Robins asked for a motion for approval of the August 28, 2012 Commission meeting minutes, if there were no corrections or changes.

Associate Member Robins explained that there was a correction to be made in the June 2012 Commission meeting minutes, for the amount of VSRFDF funding approved for the Artificial Reef Program. He explained that the Recreational Fishing Advisory Board (RFAB) had recommended this amount and it was in the staff evaluation as \$300,000.00 and in the June 2012 minutes there was a typo that indicated \$30,000.00. He stated this needed to be corrected and approved by the Board.

Associate Member Robins asked for a motion to approve the correction for the June 2012 Commission meeting minutes.

Associate Member Tankard moved to approve the June 2012 minutes, as amended. Associate Member Sessoms seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

Associate Member Robins asked for a motion to approve the August 28, 2012 Commission meeting minutes.

Associate Member Plumlee moved to approve the minutes. Associate Member Fox seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

- 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 two page two items, A & B, to be heard. He reviewed these items for the board. His comments are a part of the verbatim record.

There were no public comments. Associate Member Robins asked for a motion.

Associate Member Tankard moved to approve the two page-two items, as read and discussed. Associate Member Fox seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

- 2A. **CITY OF NORFOLK, #12-0666**, requests authorization to remove seven existing timber groins and install seven breakwaters, with maximum dimensions of 180 feet long by approximately 40 feet wide, to relocate one existing breakwater and rehabilitate a terminal groin, and to place 40,500 cubic yards of sandy material landward of the breakwater as beach nourishment between 8th View Street and Lea View Avenue situated along Chesapeake Bay in the City of Norfolk.

Permit fee.....	\$100.00
-----------------	----------

- 2B. **U.S. ARMY CORPS OF ENGINEERS and CITY OF VIRGINIA BEACH, #12-0967**, requests authorization to maintenance dredge the Rudee Inlet federal navigational channel connecting Lake Rudee and Lake Wesley to the Atlantic Ocean in Virginia Beach. Dredging will occur either by hydraulic or hopper-dredge methods on an as-necessary basis, with side-cast dredging utilized as an emergency measure. The entrance channel portion will be dredged to maximum depths of -14 feet mean lower low water and the sand trap portion dredged to maximum depths of -20 feet mean lower low water. Approximately 350,000 cubic yards of sandy spoils dredged annually from the federal navigational channel will be hydraulically pumped to the resort beach area or released/placed in the near-shore beach area, north of Rudee Inlet.

Permit fee.....	\$100.00
-----------------	----------

* * * * *

Commission Meeting

- 3. **CONSENT ITEMS:** (After-the-fact permit applications with monetary civil charges and triple permit fees that have been agreed upon by both staff and the applicant and need final approval from the Commission).

Tony Watkinson, Chief, Habitat Management, informed the Commission that there was one consent item to be heard. He reviewed this item for the board. His comments are a part of the verbatim record.

- 3A. **GARY WOJCIECHOWSKI, #12-0926**, requests after-the-fact authorization to retain a 10-foot by 15-foot floating dock and to install 52.5 linear feet of 5-foot wide finger pier and 33-foot by 16-foot open sided roof to create a covered boat slip on an existing private pier along the Poquoson River at 12 Bayview Drive in the City of Poquoson.

There were no public comments. Associate Member Robins asked for a motion.

Associate Member Fox moved to accept the staff recommendation for Item 3A. Associate Member Plumlee seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

Permit fee (triple A-T-F)	\$75.00
---------------------------------	---------

- 4. **CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.**

VMRC Counsel stated a closed meeting was not necessary.

- 5. **YANKEE POINT RACING AND CRUISING CLUB, #12-0018**, requests authorization to construct a 70-foot long pier with a 50-foot L-head adjacent to leased property on Meyer Creek at 734 Oak Hill Road in Lancaster County for transient use by club members. The project is protested by one adjacent property owner and several nearby property owners, as well as the owners of the Yankee Point Sailboat Marina.

Jay Woodward, Environmental Engineer, Sr., gave the briefing with slides. He reviewed the information in the evaluation prepared by staff. His comments are a part of the verbatim record. He noted that the oyster ground leaseholder had submitted a letter (item #6-f-2) withdrawing his protest because his concerns with the application had been resolved.

Associate Member Robins asked the applicant's representatives if they wished to comment.

George Bott, Vice-Commodore for the Club, was sworn in and he provided a presentation with slides. His comments are a part of the verbatim record.

John Henley, Commodore for the Club, was sworn in and his comments are a part of the verbatim record. Mr. Henley put into the record a petition with names of individuals who support the project.

Rita Tyson, Treasurer for the Club, was sworn in and her comments in support of the project are a part of the verbatim record. She noted that this was a non-profit club which is run by volunteers from the membership of the club.

Joel Dugan and Ellen Dugan, club members, were sworn in and their comments of support are a part of the verbatim record.

Wylie Wright, a club member, was sworn and his comments in support of the project are a part of the verbatim record.

Associate Member Robins asked for those in opposition to speak.

Ken Knull and Karen Knull, owners and operators of Yankee Point Sailboat Marina, were sworn in and their comments in opposition are a part of the verbatim record. Ms. Knull noted that both her son and daughter had submitted a letter regarding the impact to their properties' value.

Karen Patterson, adjacent property owner, was sworn in and her comments in opposition are a part of the verbatim record. Ms. Patterson provided photographs of the project site taken from her property, which were entered into the record.

Wayne Bishop, John Hall and Michael Kues, protestants, were sworn in and gave their comments in opposition. Their comments are a part of the verbatim record.

After further discussion on concerns of the Board members for the length of the pier and the pier being utilized for more than nine boats; and, possibly deferring the matter to allow discussion for a possible modification. **Associate Member Tankard moved to accept the staff recommendation to approve the project with the length of the pier reduced to 50 feet. Associate Member Sessoms seconded the motion. Mr. Watkinson noted that the permit will be issued as recommended by staff with revised drawings. Associate Member Robins asked if the royalties recommended by staff were a part of the motion. Both Associate Members Tankard and Sessoms agreed that the royalties recommended by staff were a part of the motion. The motion carried, 4-0-1. Associate Member Robins abstained.**

Permit fee.....	\$100.00
-----------------	----------

*Royalties for encroachment to be determined by revised drawings approved by staff.

* * * * *

6. **COLUMBIA GAS OF VIRGINIA, #12-0606**, requests authorization to dredge 23,146 cubic yards of State-owned submerged land during a one-time dredging event and to restore the site to its pre-dredge bathymetry with certified clean sand to complete the environmental remediation of the former manufactured gas plant (MGP) site adjacent to the Swimming Point neighborhood situated on the Elizabeth River in Portsmouth. An adjacent property owner is protesting the project.

Justine Woodward, Environmental Engineer, Sr., made a presentation with slides briefing the Commission on this project. Her comments are a part of the verbatim record.

Associate Member Robins asked if the applicant’s representative wished to comment.

Sidney Rice, representative for the applicant, was sworn in and her comments in support of the project are a part of the verbatim record.

Associate Robins asked if they agreed with the staff recommendations. Ms. Rice responded that they did agree to comply.

There were no public comments, pro or con.

Lyle Varnell, representative for VIMS, was asked to comment regarding the VIMS report and the post-dredge sampling recommendation. Mr. Varnell said that their report was prepared for the Marine Resources Commission (MRC) and others so their comments were made for all contacts. He said these particular comments were meant more for the Department of Environmental Quality (DEQ) than MRC.

Associate Member Robins asked for the action by the Commission.

Associate Member Plumlee moved to approve the project, as submitted. Associate Fox seconded the motion. Associate Member Robins asked if the motion included all of the staff recommendation. Associate Members Plumlee and Fox agreed. The motion carried, 4-0-1. Associate Member Robins abstained.

Royalty Fees (dredging 23,146 cu. yds. @ \$0.20/cu.yd.....	\$4,629.20
Permit Fee.....	\$ 100.00

Total Fees.....	\$4,729.20
-----------------	------------

- 7. **MT. BLANCO PARK ASSOCIATION INC., #12-1000**, requests authorization to install a 200 square foot concrete boat ramp creating impacts to 170 square feet of vegetated and non-vegetated tidal wetlands for the Mount Blanco Park Association community boat ramp on property situated along the James River at 12100 Sloan Drive in Chesterfield County. A Wetlands Permit is required.

Juliette Giordano, Environmental Engineer, Sr., gave the briefing on the evaluation with slides for the Board. Her comments are a part of the verbatim record.

Associate Member Robins asked if the applicant’s representative wished to comment.

Robert S. Magruder, was sworn in and his comments are a part of the verbatim record. Mr. Magruder stated that they agreed with all of the staff recommendations.

Associate Member Robins stated the public hearing was opened. There were no public comments, pro or con. He stated the matter was before the Commission for discussion or action.

Associate Member Tankard moved to accept the staff recommendation. Associate Member Fox seconded the motion. Associate Member Robins reminded the members that he would need everyone present to vote, since the Commission is acting as the Wetlands Board. The motion carried, 5-0.

Wetlands Permit Fee.....	\$10.00
--------------------------	---------

- 8. **COASTAL PRECAST SYSTEMS, #12-1189**, requests authorization to install a bulkhead, mooring dolphins, concrete piers, and to conduct new work dredging and maintenance dredging for the construction of a new travel lift system adjacent to their facility at 1316 Yacht Drive situated on the Southern Branch of the Elizabeth River in Chesapeake. The project will require both Subaqueous and Wetlands permits.

Justine Woodward, Environmental Engineer, Sr., gave the briefing on the information in the evaluation with slides. Her comments are a part of the verbatim record. Ms. Woodward noted that the Wetlands Ordinance was rescinded by the City of Chesapeake in May 2012 because of budget restraints.

Associate Member Robins asked if the applicant’s representative wished to comment.

Rebecca Francese, representative for the applicant, was sworn in and her comments in support are a part of the verbatim record.

Associate Member Robins asked if she agreed with the staff recommendations and conditions. Ms. Francese responded yes.

Associate Member Robins opened the public hearing. There were no comments, pro or con. He stated the matter was before the Commission for discussion or action.

Associate Member Plumlee moved to approve the project with all conditions. He stated that this was an important project for the South Hampton Roads area. Associate Member Tankard seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

Royalty Fees (dredging 8,000 cu. yds. @ \$0.45/cu. yd.....	\$ 3,600.00
Royalty Fees (encroachment 4,245 sq. ft. @ \$2.00/sq. ft.....	\$ 8,490.00
Permit Fee.....	\$ 100.00
Total Fees.....	\$13,090.00

- 9. DAVID and LEE-ANN FICK, (T/A Nandua Oyster Co., LLC), #12-0581,** request authorization to change the use of their pier and boathouse from private use to commercial to facilitate their oyster aquaculture operations along Nandua Creek at 13348 Full Measure Lane in the Pungoteague area of Accomack County. The applicants have also requested to retain a 20-foot by 8-foot floating up-weller, a 29.5-foot by 17.3-foot platform and construct an open-sided roof structure over the platform that will include an up-weller tank and grading equipment.

Hank Badger, Environmental Engineer, Sr., gave the briefing on the information in the staff evaluation. His comments are a part of the verbatim record.

Associate Member Robins asked if the applicant had any comments.

David Fick, applicant, was sworn in and his comments are a part of the verbatim record. He noted that the existing boathouse was not used in the commercial oyster business and should not be included in the square footage for determining the royalty fees.

Commission Meeting

Lee Ann Fick, applicant, was sworn in and her comments are a part of the verbatim record. Ms. Fick stated that they were not aware they needed a permit from the VMRC and the county had told them they did not need a permit since it was being used for aquaculture. She said they needed to have the approval as they had already ordered seed oysters.

Associate Member Robins asked for public comments and there were none. After some discussion, he stated the matter was before the Commission for action.

Associate Member Plumlee moved to approve the after-the-fact permit for 2,850 square feet, which did not include the boathouse; and to charge the \$1,000 civil charge. Associate Member Fox seconded the motion. Associate Member Robins stated this was a new precedence being set here allowing for mixed uses and will be specified as a condition to the permit. The motion carried, 4-0-1. Associate Member Robins abstained.

Royalty Fee (encroachment 1,895 sq. ft. \$1.50/sq. ft.).....	\$2,842.50
Royalty Fee (encroachment 160 sq. ft. @\$0.05/sq. ft.).....	\$ 8.00
Permit Fee.....	\$ 100.00
Civil Charge.....	\$1,000.00
Total Fees.....	\$3,950.50

10. RAM ISLAND ROD AND GUNNING CLUB, INC., Notice to Comply #12-03 to Lloyd C. Riggs Jr. Briefing regarding title information and Commission jurisdiction over use of subaqueous bottom in Back Bay in the Pungo area of Virginia Beach related to the expansion of the Ram Island Rod and Gunning Club, Inc., structure including a second story, power poles, power line and attached decking and piers.

Tony Watkinson, Chief, Habitat Management gave the briefing on this matter. His comments are a part of the verbatim record.

Associate Members Robins asked if the representative wished to comment.

John Daniel, Attorney for the Riggs Family, was present and his comments are a part of the verbatim record. He said they were requesting an acceptance for a permit for what was already done so as to avoid a fourth hearing.

Associate Member Robins asked if a permit can be granted without a joint permit application and without a public notice. He asked VMRC Counsel to comment.

Paul Kugelman, Assistant Attorney General and VMRC Counsel said that the VMRC does not have the authority to determine ownership and pursuant to Code Section 28.2-1205(A), a joint permit application and public notice are required before a permit can be issued. He added that the Commission could decline to exercise its jurisdiction. He pointed out that he was not an advisor for policy, but to provide legal advice only and options were available to the Commission.

After much discussion, Associate Member Plumlee moved to defer the matter until a Joint Permit Application (JPA) is submitted. Associate Member Fox seconded the motion.

After further discussion, Associate Member Sessoms made a substitute motion to go forward with no permits. The motion was seconded by Associate Member Tankard. The substitute motion failed with a vote of 2-2. Associate Members Fox and Plumlee both voted no.

Associate Member Robins asked if the Commission was suspending the enforcement action issue. Associate Members Plumlee and Fox both agreed. The original motion carried, 3-2. Associate Members Sessoms and Tankard both voted no.

* * * * *

11. PUBLIC COMMENTS:

Request for a Spiny Dogfish License to be reinstated:

Mike Shackelford, waterman, requested the Commission allow him to return to the spiny dogfish fishery by issuing him a license. He explained that it was a mistake on his part that his spiny dogfish harvest had not been reported, but was not done intentionally. This being a limited entry fishery, it was previously determined by staff that he did not meet the eligibility requirements for a permit. The Commission took no action on the request and referred the matter to the Finfish Management Advisory Committee (FMAC) for discussion and recommendations for the fishery.

* * * * *

12. REQUEST FOR AN OCTOBER 30, 2012 PUBLIC HEARING ON BLUE CRAB FISHERY AND MANAGEMENT ISSUES: (1) Staff- recommended closure of the crab dredge fishery for the 2012-2013 season (4VAC20-1140-20 et seq., "Pertaining to Prohibition of Crab Dredging in Virginia Waters"); (2) Extension of the 2012 crab pot season and recommended bushel limits for conservation equivalency (4VAC20-270-10 et seq., "Pertaining to Crabbing"); (3) Conformity of blue crab closed harvest seasons within sanctuary areas (4VAC20-752-10 et seq., "Pertaining to Blue Crab Sanctuaries" and 4VAC20-1210-10 et

seq., “Pertaining to a Blue Crab Sanctuary”); (4) Proposed regulation to restrict commercial crabbing activities in the Albemarle watershed to crab pots and peeler pots.

Rob O’Reilly, Chief of Fisheries Management, reviewed this item with slides. His comments are a part of the verbatim record. Mr. O’Reilly stated that staff recommended the advertisement for a public hearing to be held at the October 30, 2012 Commission meeting. Mr. O’Reilly also asked the Commission to consider a proposal to utilize Marine Fishing Improvement Funds (MFIF) to pay for expenditures for the upcoming crab dredge gear study. Associate Member Plumlee asked if Commissioner Travelstead had knowledge of this additional budget item. Mr. O’Reilly responded, yes.

After further discussion, Associate Member Fox moved to advertise for the public hearing. Associate Member Plumlee seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

Mr. O’Reilly noted that there was an additional item involving crabbing in the Albemarle Watershed.

Alicia Nelson, Fisheries Management Specialist, gave the presentation on the proposed restrictions for commercial crab and peeler pots in the Albemarle watershed area. The Department of Game and Inland Fisheries had requested these restrictions by the Commission. Her comments are a part of the verbatim record.

Associate Member Fox moved to advertise for a public hearing. Associate Member Plumlee seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

* * * * *

13. RECOMMENDATION: Consideration of the recommendations of the Recreational Fishing Advisory Board (RFAB) and the Commercial Fishing Advisory Board (CFAB).

Rob O’Reilly, Chief of Fisheries Management, briefed the Commission on these recommendations. His comments are a part of the verbatim record.

Proposed recommendations of the RFAB and CFAB:

VSRFDF funds available for projects, as of July 31, 2012 are estimated as \$1,444,896. The \$1.5 million for agency functions has already been subtracted for fiscal year 2013.

At the September 10 meeting, the following ten projects were recommended for approval by RFAB:

H) 2012 Virginia Marine Sport fish Collection (Year 6). J. Grist, J. Cimino, VMRC, \$10,000.

I) Federal Assistance (Wallop-Breaux) Matching Funds, Federal FY 2013. Rob O'Reilly, VMRC, \$256,156 (VSRFDF to provide \$224,156; MFIF to provide \$32,000).

J) 2013 Children's Fishing Clinic (Year 16), Rob Cowling, Newport News Rotary Club and Coastal Conservation Association-Peninsula, \$7,500.

K) 2013 Kiwanis Club Children's Fishing Clinic (Year 12). Wesley Brown, Capital District Kiwanis Club, \$7,500.

L) 2013 Norfolk Youth Head Boat Fishing Trip (Year 2). Ned Smith, Norfolk Anglers Club, \$1,115.

M) 2013 Virginia Game Fish Tagging (Year 19). S. Musick, VIMS, and L. Gillingham, VMRC, \$72,392.

N) 2013 Estimating Relative Abundance of Young-of-Year American Eel in the Virginia Tributaries of Chesapeake Bay (Yr 12). M. Fabrizio, T. Tuckey, VIMS, \$51,971 (VSRFDF to provide \$25,985.50; MFIF to provide \$25,985.50).

Q) Greenbackville Harbor Enhancements, S. Hall, Accomack County, R. Mariner, GMB, \$225,000.

R) Chincoteague Historic Bridge Fishing Pier. K. Edwards, R. Ritter, Town of Chincoteague, \$129,083.

U) Cooperative (VMRC, Va Tech, ASMFC) Efforts to Utilize Alternative Methods for the Upcoming Stock Assessment of Weakfish. R. O'Reilly, VMRC, Y. Jiao, VPI, P. Campfield, ASMFC; \$20,000 (VSRFDF to provide \$15,000; MFIF to provide \$5,000).

Items Q and R were recommended for funding, conditional on these projects being granted environmental permits by the Habitat Management Division.

Three of the above projects (Items I, N, and U) were also reviewed by the Commercial Fishing Advisory Board (CFAB). CFAB members were contacted by telephone, and five of eight members supported all three projects.

Commission Meeting

Two projects were not recommended for funding by RFAB as follows:

S) Genetic-based Investigation of Blueline Tilefish and Snowy Grouper Stock Structure (Year 1 of 2). J. McDowell, J. Graves, VIMS, \$74,155.

T) Fish Away from Whales Angler Outreach Project (Year 1 of 2). Mark Swingle, Virginia Aquarium Foundation, \$76,151.

Associate Member Robins opened the public hearing. There were no public comments. He asked for a motion.

Associate Member Plumlee moved to approve the recommendations for funding. Associate Member Fox seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

14. REQUEST FOR PUBLIC HEARING: Proposed amendments to 4VAC 20-960-10 et seq. "Pertaining to Tautog" to adjust the commercial and recreational management measures for the 2013 season.

Joe Cimino, Head, Plans and Statistics, gave the presentation and his comments are a part of the verbatim record. Mr. Cimino said the amendments requested were the result of a change, made by the ASMFC in the required reduction in harvest from 50.5% to 39% for Virginia. He said this information had been provided to both the Ad hoc committee and FMAC for their review and comments. He explained that this would provide for more options to be considered by the Commission at a public hearing.

Associate Member Robins asked for a motion.

Associate Member Plumlee moved to advertise for the public hearing. Associate Member Fox seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

15. POUND NETS: Mr. Curtis A. Heath of Townsend, Virginia, has applied to license and locate a pound net at new locations in the lower eastern Chesapeake Bay. There are public comments in opposition to this new pound net location.

Joe Grist, Deputy Chief of Fisheries Management, gave the presentation with slides. Mr. Grist stated this is a public hearing. He explained that the staff recommendation was for denial and to allow Mr. Heath to apply for an alternate pound net site further offshore to minimize the impacts to navigation.

Associate Member Robins opened the public hearing. He asked the applicant if he had any comments.

Curtis A. Heath, applicant, was sworn in and his comments are a part of the verbatim record. Mr. Heath noted that he had left 80 feet of space at the end of the net to minimize the impact on navigation when it was surveyed by staff.

Associate Member Robins asked for anyone, pro or con, who wished to comment.

Cary Gibson, protestant, was sworn in and his comments in opposition are a part of the verbatim record. Mr. Gibson stated that he was very familiar with the area and the staff recommendation was a bad idea to move the net location further offshore as it would not lessen the impacts to navigation.

Brent Weisiger, protestant, was sworn in and his comments in opposition are a part of the verbatim record. Mr. Weisiger said the notice was done on September 11 and others would have been present if it they had known about the meeting.

Claudia Bagwell, protestant, was sworn in and her comments in opposition are similar to the two previous speakers and a part of the verbatim record.

When asked for rebuttal comments, the applicant did not have any rebuttal comments to make. Associate Member Robins stated the matter was before the Commission for discussion or action.

After some discussion, Associate Member Fox moved to accept the staff recommendation to deny the pound net request. Associate Member Sessoms seconded the motion. Associate Member Robins said that this was the first time that he knew of that staff had recommended denial. He added that there was significant impact to navigation and the applicant was allowed to modify his request. The motion carried, 4-0-1. Associate Member Robins abstained.

16. VIRGINIA INSTITUTE OF MARINE SCIENCE: Presentation of Dr. Bob Orth's annual review of the status of Submerged Aquatic Vegetation.

This item was pulled from the agenda at the request of the Virginia Institute of Marine Science (VIMS); to be rescheduled for the October meeting.

17. FAILURE TO REPORT- Robert R. Grasty.

Stephanie Iverson, Supervisor, Mandatory Harvest Reporting, gave the presentation and her comments are a part of the verbatim record. Ms. Iverson noted that notifications had been done and his reports had been received today. She said the staff recommendation was for 2 years probation, no suspension.

Robert R. Grasty, waterman, was sworn in and his comments are a part of the verbatim record. Mr. Grasty apologized to the Commission and stated that two years was too long. Associate Member Robins said that the reporting was important to him as a waterman and the State; he asked for a motion.

Associate Member Plumlee moved to accept the staff recommendation. Associate Member Fox seconded the motion. The motion carried, 4-0-1. Associate Member Robins abstained.

* * * * *

There being no further business, the meeting was adjourned at approximately 5:25 p.m. The next meeting was previously rescheduled by the Commission to be held Tuesday, October 30, 2012.

* * * * *

Richard B. Robins, Acting Chair

Katherine Leonard, Recording Secretary