

## MINUTES

## Commission Meeting

June 26, 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:

Jack G. Travelstead	Commissioner
J. Carter Fox	
William E. Laine, Jr.	
Joseph C. Palmer, Jr.	Associate Members
J. Bryan Plumlee	
Richard B. Robins Jr.	
Kyle J. Schick	
J. Edward Tankard, III	
Whitt G. Sessoms, III	
Paul Kugelman, Jr.	Assistant Attorney General
John Bull Director	Public Relations
Linda Farris	Bs. Systems Specialist, MIS
Stephanie Iverson	Fisheries Mgmt. Manager
Sonya Davis	Fisheries Mgmt. Manager
Alicia Nelson	Fisheries Mgmt. Specialist
Adam Kenyon	Fisheries Mgmt. Specialist
Renee Hoover	Fisheries Mgmt. Specialist
Lewis Gillingham	SW Fishing Tournament
Rick Lauderman	Chief, Law Enforcement
Warner Rhodes	Deputy Chief, Law Enforcement
Brian Charnock	Marine Police Officer
Brandon Sterling	Marine Police Officer
Tony Watkinson	Chief Habitat Mgmt.
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.
Justine Woodward	Environmental Engineer, Sr.
Juliette Giordano	Environmental Engineer, Sr.
Rob Butler	Engineering Technician

**Commission Meeting**

**16787  
June 26, 2012**

Bradley Reams

Project Compliance Tech

Lyle Varnell

Virginia Institute of Marine Science

Others present:

- Scott Roe
- John Cobb
- Richard Szymanski
- Bill Kirby
- Bill Walker
- Michael Barr
- Jim George
- Marc Brown
- Joyce Brown
- Taylor Brown
- Ben McGinnis
- Shannon Gay
- Randy Birch
- Ray Wimbrow
- and others.

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Commissioner Travelstead called the meeting to order at approximately 9:39 a.m. All Associate Members were present.

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At the request of Commissioner Travelstead, Associate Member Robins gave the invocation and Tony Watkinson, Chief Habitat Management, led the pledge of allegiance.

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**APPROVAL OF AGENDA:** Commissioner Travelstead asked if there were any changes from the Board members or staff. There were none.

Commissioner Travelstead asked for a motion for approval of the agenda by the Board.

**Associate Member Tankard moved to approve the agenda. Associate Member Robins seconded the motion. The motion carried, 8-0.**

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**MINUTES:** Commissioner Travelstead requested a motion for approval of the May 22, 2012 Commission meeting minutes, if there were no corrections or changes. There were no changes.

Commissioner Travelstead asked for a motion to approve the minutes.

**Associate Member Laine moved to approve the minutes. Associate Member Palmer seconded the motion. The motion carried, 7-0-1. Associate Member Robins abstained as he was absent from last month’s meeting.**

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Commissioner Travelstead, at this time, 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 four page two items to be heard. He reviewed item 2A, 2B, 2C, and 2D for the board. His comments are a part of the verbatim record.

Commissioner Travelstead asked for any comments from the public. There were none. He asked for a motion from the Board.

**Associate Member Schick moved to approve the four page-two item, as read. Associate Member Robins seconded the motion. The motion carried, 8-0.**

- 2A. **DEPARTMENT OF THE NAVY, #12-0284**, requests authorization to install approximately 2,220 linear feet of sewer force main beneath the York River by directional bore and 200 linear feet via the open-cut method to facilitate replacement of the existing sewer force main servicing Pier R3 at Naval Weapons Station Yorktown in York County.

Permit Fee.....	\$100.00
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- 2B. **COBB’S MARINA, #08-2290**, requests authorization to rehabilitate their existing marina, to remove and replace existing fixed piers and associated mooring piles, to include a 424-foot long by 10-foot wide floating pier with a 620-foot L-head platform, a 364-foot long by 8-foot wide floating pier with a 1,050 T-head platform, a 251-foot long by 8-foot wide floating pier and a 400-foot wide L-head platform resulting in the creation of 67 permanent slips and 7 temporary mooring

spaces, and to mechanically dredge approximately 10,995 cubic yards of State-owned submerged land during a one-time dredging event to achieve maximum navigable depths of -8.5 feet mean low water for the majority of the marina basin, and to a depth of -6.5 mean low water adjacent to an existing boat ramp at their facility at 4524 Dunning Road situated on Little Creek in the City of Norfolk. Dredged material will be offloaded on-site into sealed dump trucks and transported to the Higgerson-Buchanan dredged material disposal pit in Chesapeake. Staff recommends approval with a one-time royalty payment of \$4,947.75 for the dredging of 10,995 cubic yards of material at a rate of \$0.45 per cubic yard.

Royalty Fees(dredging 10,995 cubic yards at \$.45/cub. yard)	\$4,947.75
Permit Fee.....	\$100.00
Total Fees .....	\$5,047.75

**2C. VANE MARINE TERMINAL, LLC #12-0485**, requests authorization to remove 25 existing deteriorating timber dolphins and replace with approximately 18 3-pile or 4-pile open-ended steel pipe dolphins with rubber facing installed immediately adjacent to the location of the timber dolphin to be removed adjacent to their property at 3950 Burtons Point Road situated on the Southern Branch of the Elizabeth River in the City of Portsmouth.

Permit Fee.....	\$100.00
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**2D. DEPARTMENT OF THE NAVY, #12-0734**, requests authorization to install an 8-inch steel submarine cable conduit by directionally drilling from the NAS Oceana, Dam Neck Annex under the bottom of the Atlantic Ocean to a point approximately 6,000 feet channelward of mean low water with coordinates of 75°55'56" W Longitude and 36°45'53" N Latitude in Virginia Beach. The conduit will terminate in a flanged end cap flush with the seafloor at a depth of approximately 28 feet in an effort to maintain seafloor cable systems that provide essential oceanographic data for the Commander Undersea Surveillance mission of the Navy.

Permit Fee.....	\$100.00
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- 3. **CONSENT ITEM** (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 reviewed the one consent item, 3A. His comments are a part of the verbatim record.

Commissioner Travelstead asked for any comments from the public. There were none. He asked for a motion from the Board.

**Associate Member Laine moved to approve the consent agenda item, as read. Associate Member Robins seconded the motion. The motion carried, 8-0.**

- 3A. **VIRGINIA ELECTRIC AND POWER CO., #11-0207**, requests after-the-fact authorization to retain an aerial 230 kV electrical transmission line from Bristers Junction to Gainesville, impacting a total of 70 linear feet of Town Run (two locations), 50 linear feet of Cedar Run, 21 linear feet of Kettle Run and 65 linear feet of Broad Run in Fauquier and Prince William Counties. The applicant has agreed to pay a civil charge in the amount of \$2,000.00 and triple permit fees in lieu of further enforcement action. Staff recommends approval and acceptance of the aforementioned civil charge and fees, along with a royalty in the amount of \$618.00 for the encroachment of the project across 206 linear feet of State-owned subaqueous land, at a rate of \$3.00 per linear foot.

Royalty Fees(encroachment over 206 linear feet at \$3 per linear foot)	\$618.00
Triple Permit Fee.....	\$300.00
Civil Charge .....	\$2,000
Total Fees .....	\$2,918

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

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- 5. **WILLIAM KIRBY, #03-2549 (After-the-fact Modification Request).** Commission review on appeal by the applicant of the May 9, 2012, decision of the Gloucester County Wetlands Board to deny his after-the-fact request to modify his permit to allow his existing concrete pipe breakwater, spur and revetment to remain as currently constructed adjacent to his property situated along the Northwest Branch of the Severn River at 9605 Glass Road in Gloucester County.

It was the consensus of the Commission to hear the appeal based on the record transmitted by the Gloucester County Wetlands Board, and no new evidence would be presented.

Chip Neikirk, Environmental Engineer, briefed the Commission and presented slides showing the project site and surrounding locale, and his statements are part of the verbatim record. Mr. Neikirk reported that the Gloucester County Wetlands Board unanimously denied the appellant's after-the-fact application to retain the structures that were built in variance with the permit issued by the wetland board. Mr. Neikirk said he understood Mr. Kirby was appealing because he felt his after-the-fact application to the wetlands board should have been approved.

The appellant, Mr. Kirby, was present and told the Commission his project, as constructed, is working and he should be allowed to keep it. His testimony is part of the verbatim record.

Mr. Bill Walker, Chair of the Gloucester Wetlands Board, told the Commission that board members thoroughly discussed all options surrounding Mr. Kirby's after-the-fact request.

**Associate Member Laine moved to uphold the decision of the Gloucester Wetlands Board to deny the appellant's request for an after-the-fact permit. Associate Member Plumlee seconded the motion. The motion carried, 8-0.**

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6. **MARC E. BROWN, #2012-011**, requests authorization to lease up to 18 acres of oyster planting grounds at the confluence of the Pagan River and James River adjacent to the Pagan River channel in Isle of Wight County. The project is protested by an adjacent leaseholder.

Ben Stagg, Environmental Engineer, briefed the Commission on the applicant's request to lease 18 acres of oyster planting grounds and presented slides that showed the location of the requested lease next to the Pagan River federal navigation channel. He said a field survey of the area disclosed that the current Coast Guard channel markers preclude a contiguous lease as sought by Mr. Brown, because policy prohibits leasing ground within a federal navigation channel, but that two separate leases could be delineated although one would be too small to allow dredging for oysters. Mr. Stagg's testimony is part of the verbatim record.

The applicant was present and testified that the Coast Guard has moved the channel markers in recent years. He requested the Commission approve his lease application as submitted. His testimony is part of the verbatim record.

Protester Shannon Gay was present and testified that he would not object if the Commission approved two, non-contiguous leases to the applicant, but continued to object to granting one lease that would include ground within the channel markers.

**Associate Member Fox moved to table the matter until the August Commission meeting so staff can better determine the exact location of the federal navigation channel in relation to the channel markers. Associate Member Robins seconded the motion. The motion carried, 8-0.**

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7. **CHRISTOPHER W. CUONO, #2007-059-S**, requests authorization to lease 3.59 acres of Oyster Planting Ground in Black Point Drain, a small tributary to Assateague Channel, near Toms Cove Campground in the Town of Chincoteague, Accomack County. The project is protested by a nearby property owner.

Hank Badger, Environmental Engineer, briefed the Commission on the applicant’s request to lease 3.59 acres of oyster planning ground, and presented slides that showed the location of the requested lease. His remarks are part of the verbatim record.

The applicant was present. His testimony is part of the verbatim record.

The application was protested by a neighboring property owner, Mr. Edward Tull. His testimony is part of the verbatim record.

**Associate Member Tankard moved to approve the oyster ground lease application. Associate Member Schick seconded the motion. Associate Member Robins recused himself and did not vote. The motion carried, 7-0.**

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**8. PUBLIC COMMENTS.**

No one spoke during the public comment portion of the meeting.

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9. **PUBLIC HEARING:** Establish the 2012 commercial bluefish quota as 1,225,649 pounds, Chapter 4 VAC 20-450-10 et seq., “Pertaining to the Taking of Bluefish”

Fisheries Chief Rob O’Reilly presented slides and told the Commission that the Atlantic States Marine Fisheries Commission recently provided the 2012 bluefish commercial quotas for Atlantic coastal states, and increased Virginia’s quota by 10 percent

over the 2011 landing quota. The 2012 commercial quota is 1,225,649 pounds. His comments are part of the verbatim record.

No one from the public commented.

**Associate Member Robins moved to approve the 2012 commercial bluefish quota. Associate Member Tankard seconded the motion. The motion carried, 8-0.**

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- 10. REQUEST FOR PUBLIC HEARING:** Requesting modification of the October through December 31 Chesapeake Area recreational striped bass management measures currently established as a 2-fish possession limit, with a minimum size limit of 18 inches total length and maximum size limit of 28 inches total length, except one striped bass may be 34 inches or greater. The proposed modification would maintain the 2-fish possession limit and maximum size limit of 28 inches, except one striped bass may be greater than 28 inches total length.

Fisheries Chief Rob O'Reilly presented slides and briefed the Commission on a proposal to simplify and loosen striped bass catch regulations in the fall recreational striped bass season. He said data collected by the Marine Recreational Information Program has determined that the recreational striped bass quota has not been reached in Virginia in three of the past four years. As a result, staff is recommending returning to 2004 management measures: a two fish bag limit, and a minimum size of 18 inches, with one fish permitted over 28 inches. He explained this action, if approved, would remove the so-called "no take slot limit" of 28-32 inches that has been in place in recent years. Mr. O'Reilly's comments are part of the verbatim record.

**The Commission decided, by consensus, to advertise for a public hearing and vote on the proposal at the Commission's July 24 meeting.**

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- 11. APPEALS OF DENIALS FOR AN EXCEPTION TO THE TWO YEAR WAITING PERIOD FOR A COMMERCIAL FISHERMAN REGISTRATION LICENSE.**

Deputy Fisheries Chief Joe Grist briefed the Commission on an appeal by Richard Szymanski on the denial of an exception to the two year waiting period for a commercial waterman's card. Mr. Grist explained that the appellant did not meet the criteria for eligibility to be exempted from the two-year delay required in the Code of Virginia. Mr. Grist's comments are part of the verbatim record.

The appellant was present. His comments are part of the verbatim record.



Associate Member Fox moved to uphold the decision to deny the appellant's request for an exemption to the two year waiting list. Associate Member Tankard seconded the motion. The motion carried, 8-0.

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**12. RECREATIONAL FISHING ADVISORY BOARD RECOMMENDATIONS FOR PROJECT FUNDING.**

Commissioner Travelstead presented a certificate of recognition to Fisheries Management Specialist Sr., Sonya Davis, who is transferring to another state agency. Mrs. Davis briefed the Commission on the financial status of the Recreational Fishing Advisory Board, saying the fund currently is at \$1,443,096. She told the Commission that the advisory board has recommended the Commission approve eight of 20 project applications that are under review. Six of those projects are youth educational programs. The other two projects are for deployment of material on artificial reefs and for an advertising outreach program. The programs are:

- A) 2012 Sunshine Children's Fishing Program. Denny Dobbins, Portsmouth Angler's Club. \$7,100.00 **Vote 8-0**
- B) 2012 Saxis and Morley's Wharf Fishing Piers Youth Fishing Tournaments (Year 11). Allen Evans, Eastern Shore of Virginia Anglers Club. \$2000 **Vote 8-0**
- C) 2012 Youth Developmental "Hooked on Fishing" Adventure (Year 5). B. Hewlett, B Pride, Virginia Charter Boat Association. \$12,960 **Vote 8-0**
- D) 2012 Hope House and Oak Grove Nursing Home Fishing Excursions and Clinics. J. Stephenson, P. Anderson, Great Bridge Fisherman's Association. \$5,175 **Vote 8-0**
- E) Virginia Saltwater Fishman's Journal Public Outreach Project. J. Grist, A. Nelson, VMRC. \$10,000 **Vote 8-0**
- F) Artificial Reef, Funding for Deployment of Structure 2012-2013. Mike Meier, VMRC. \$300,000 **Vote 8-0**
- O) 2012 Knights of Columbus Annual Kids Fishing Day. Greg Brown, Knights of Columbus. \$7,968 **Vote 8-0**
- P) 2012 CICBA, Take a Kid Fishing Day. Charlie Koski, Chincoteague Island Charter Boat Association. \$1,637 **Vote 8-0**

**Associate Member Robins moved to approve funding for the eight programs recommended by RFAB for funding. Associate Member Plumlee seconded the motion. The motion carried, 8-0.**

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**13. OCTOBER/NOVEMBER/DECEMBER MEETING DATES.**

**The Commission decided, by consensus, to combine the scheduled November and December meetings, and hold that meeting on Dec. 4, and to move the October meeting from Oct. 24 to Oct. 30.**

Also, Commissioner Travelstead informed the Associate Members that they have been invited to tour Omega Protein’s menhaden processing plant in Reedville on Sept. 19. He noted that the menhaden fishery is not managed by the Commission, but it is one of the largest fisheries in the Commonwealth.

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There being no further business, the meeting was adjourned at approximately 1:45 p.m. The next regular meeting will be held Tuesday, July 24, 2012.

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Jack G. Travelstead, Commissioner

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John M. R. Bull, Director of Public Relations