



COMMISSION ACTIONS AUGUST 2007

The following are the agenda items from the Commission's regular meeting held August 28, 2007 at Commission headquarters. The Commission's actions are in bold.

**** APPROVAL OF AGENDA. The Commission approved a modified agenda after removing item 2A because of a protest that remained unresolved.**

1. MINUTES OF PREVIOUS MEETING. **The Commission approved the minutes of the regularly scheduled meeting on July 24, 2007 and the special meeting on July 25, 2007.**

[[Audio Item 1](#)]

2. PERMITS (Projects over \$50,000 with no objections and with staff recommendation for approval). **The Commission unanimously approved agenda items 2B – 2I as recommended by staff.**

[[Audio Item 2](#)]

3. CONSENT AGENDA ITEMS. **The Commission unanimously endorsed the civil charge and triple permit fees negotiated by staff and approved an after-the-fact permit modification for Mr. Jeff Hebenstreit's boathouse (#05-2416) as recommended by staff in lieu of any further enforcement measures as permitted by Code. See item 3A at the bottom for more detail.**

[[Audio Item 3](#)]

4. CLOSED MEETING FOR CONSULTATION WITH OR BRIEFING BY COUNSEL. **The Commission discussed a request by the City of Virginia Beach for a stay of the July 25, 2007 decision in the Sandler at Indigo Bay LLC appeal, and the continuing litigation in the case of Jewett v. MRC. No motion was made on the request by the City of Virginia Beach and a stay therefore was not approved.**

[[Audio Item 4](#)]

5. BLUNT MANAGEMENT, LLC, #06-2974, requests authorization to expand an existing 7-slip, open-pile, commercial marina to a length of 265 feet channelward of mean low water, with 39 total slips, and to construct an 8-foot wide by 130-foot long open-pile marginal wharf, adjacent to their property situated along Monroe Bay in the Town of Colonial Beach, Westmoreland County. The project is protested by a nearby property owner. **The Commission unanimously approved the request in accordance with the staff recommendation, subject to the provision of revised drawings which more accurately reflect the actual encroachment approved for royalty purposes, and the inclusion of a permit condition prohibiting the mooring of vessels on the outboard side of the proposed southerly L-head platforms situated along the edge of the proposed fairway.**

[[Audio Item 5](#)]

6. H. SPENCER MURRAY, #07-0792, requests authorization to dredge, on an as-needed basis, up to 297 cubic yards of State-owned subaqueous bottom, to provide a 320-foot long by 20-foot wide entrance channel into Nassawadox Creek, with a maximum depth of minus four (-4) feet at mean low water along the Chesapeake Bay near the mouth of Nassawadox Creek in Northampton

County. The sandy dredged material will be placed overboard 100 feet south of and parallel to the proposed channel. **The Commission unanimously approved the application as proposed.**

[[Audio Item 6](#)]

7. QUEENS CREEK LANDING, #06-0723, requests authorization to install six (6) pilings on the east side of the T-head pier to improve an existing boatslip, construct a 4-foot by 16-foot open-pile pier to improve access to a sewage pump-out facility and to construct a 68 square foot open-pile addition at the landward end of their existing pier situated along Queens Creek at 321 Walnut Acres Lane in Mathews County. An adjoining property owner protests the project. **The Commission unanimously approved the application in accordance with the recommendations of staff. This included approval of the 4-foot by 16-foot pier at the pump out station and the 68 square foot angled deck area at the landward end of the main pier, but denial of any increase in the width or length of the easternmost slip.**

[[Audio Item 7](#)]

8. TERRY TURNER ET AL, #07-0616, requests authorization to construct a 24-foot by 24-foot enclosed boathouse to replace a similar sized enclosed boathouse adjacent to their property situated along Hunton Creek, at 72 Monroe Drive, in Middlesex County. **The Commission voted 5-3 to approve the reconstruction of an enclosed boathouse as requested.**

[[Audio Item 8](#)]

9. ROBERT WINFIELD, #07-0693, requests authorization to construct a 43-foot by 19-foot open-sided boathouse adjacent to property situated along the Warwick River in Newport News. **The Commission voted 6-2 to approve a 42-foot by 18-foot open-sided boathouse.**

[[Audio Item 9](#)]

10. MR. AND MRS. RAYMOND THOMPSON, #07-1329, request after-the-fact authorization to retain the side wall which partially encloses a previously permitted, noncommercial boathouse adjacent to their property situated along Balls Creek in Northumberland County. **The Commission voted 7-1 to grant after-the-fact authorization and allow the retention of two previously unpermitted boathouse walls.**

[[Audio Item 10](#)]

11. COASTAL DESIGN AND CONSTRUCTION, #07-1204, requests authorization to install two (2) concrete floating pier/wave attenuators, one measuring 13-feet wide by 66-feet long and the other measuring 10-feet wide by 33-feet long adjacent to their existing private, noncommercial, open-pile pier situated along the York River at 6344 Almondsville Road in Gloucester County. **The Commission unanimously voted to deny the installation of the floating wave attenuators in accordance with the recommendation of staff.**

[[Audio Item 11](#)]

12. PUBLIC COMMENTS COMMENTS. **Mr. Robert Jensen provided the Commission with an update on his efforts to halt the U.S. Navy's removal of the excess and surplus ammunition loading facility which lies in Hampton Roads.**

[[Audio Item 12](#)]

13. PRESENTATION OF THE REPORT AND RECOMMENDATIONS OF THE BLUE RIBBON OYSTER PANEL. **The commission voted unanimously to accept the report and endorse its recommendations, noting components of the plan that require regulation changes will be individually considered as they are presented for future commission action.**

[[Audio Item 13](#)]

14. DR. JAMES KIRKLEY: Report on the status of the menhaden economic analysis and stakeholder involvement. **Dr. Kirkley reported that menhaden harvests on the Eastern Coast**

have been declining over the decades, but harvests from Virginia waters have remained static in recent years.

[[Audio Item 14](#)]

15. DR. BOB ORTH: Annual update on the status of submerged aquatic vegetation areas and update on the propeller scar project. **The Commission approved a \$20,000 appropriation to continue Dr. Orth's research on propeller scarring in the Chesapeake Bay and eelgrass restoration efforts on several Eastern Shore waterbeds. Eelgrass vegetation has decreased substantially in Virginia waters since 2004, perhaps as a result of declining water clarity, Dr. Orth reported.**

[[Audio Item 15](#)]

16. PROPOSED MANAGEMENT MEASURES FOR THE 2007 FALL CHESAPEAKE AREA RECREATIONAL STRIPED BASS FISHERY; request for a September 2007 Public Hearing. **The Commission unanimously agreed to set a date for a public hearing next month, and advertise it beforehand, on proposed changes to recreational striped bass harvest limits.**

[[Audio Item 16](#)]

17. PUBLIC HEARING: Amendments to Regulation 4 VAC 20-755-10 et seq., "Pertaining to Artificial Reefs", to incorporate additional artificial reef sites to be reserved for recreational fishing only. **The Commission agreed unanimously to ban the use of commercial fishing gear from the Commonwealth's artificial reefs, an effort to avoid conflicts between recreational anglers and commercial watermen. The Commission also agreed to "square off" the boundaries of all artificial reefs that have circular configurations.**

[[Audio Item 17](#)]

18. EXCEPTION UNDER HARDSHIP PROVISION OF REGULATION 4 VAC 20-950-10 ET SEQ: Dale Denniston requests entrance into the commercial black sea bass directed fishery. **The Commission unanimously voted to allow the applicant to enter the fishery under hardship provisions.**

[[Audio Item 18](#)]

19. REQUEST FOR PUBLIC HEARING: establishment of 2007-08 oyster seasons. **The Commission unanimously agreed to hold a hearing next month to set the oyster seasons and to create a rotating oyster harvest/sanctuary plan for the Rappahannock River.**

[[Audio Item 19](#)]

THE FOLLOWING PAGE TWO ITEMS WERE APPROVED UNANIMOUSLY, IN A BLOC VOTE, EXCEPT FOR 2A, WHICH WAS PULLED FROM CONSIDERATION:

2A. COURTLAND FARMS LOUDOUN, LLC, #06-2468, requests authorization to install, by the directional drill method, 119 linear feet of 6-inch HDPE pipe encased in an 8-inch HDPE sleeve at least 10 feet beneath Little River as part of the Courtland Farms Forcemain project in Loudoun County. Recommend a royalty of \$357.00 for the encroachment under 119 linear feet of State-owned subaqueous bottom at a rate of \$3.00 per linear foot.

2B. DEPARTMENT OF THE ARMY, #07-1080, requests authorization to install a total of 305 linear feet of utility lines at separate crossing along Accotink Creek, a 109-foot by 48-foot bridge, and a 91-foot by 41-foot bridge above Accotink Creek resulting from the Base Realignment and Closure construction at the Engineer Proving Ground development at Fort Belvoir in Fairfax County.

2C. LEESBURG UTILITIES DEPARTMENT, #07-1122, requests authorization to replace an existing 8-inch waterline with 150 linear feet of 16-inch waterline beneath Tuscarora Creek, south of the Route 7/15 Bypass bridge, along Business Route 15 in Leesburg in Loudoun County.

2D. DOMINION TERMINAL ASSOCIATES, #07-1162, requests authorization to maintenance dredge, hydraulically or mechanically, approximately 80,000 cubic yards of material to maximum depths of -52.6 feet below mean low water approximately every two years, or when maintenance is required, adjacent to property situated along the James River in Newport News.

2E. CHESAPEAKE DEPARTMENT OF PUBLIC WORKS, #07-1352, requests authorization to replace the substandard Willis Creek Bridge on Cedar Road with two (2) 10-foot wide by 8-foot tall by 48-foot long pre-cast concrete box culverts, countersunk six (6) inches below the natural stream bed, located just south of Sawyers Mill Crossing in Chesapeake.

2F. TOM LANGLEY, ET AL, #07-0704, requests authorization to mechanically dredge approximately 2,344 cubic yards of State-owned submerged bottom, 388 cubic yards of which is considered maintenance dredging (VMRC #89-1283), to achieve maximum water depths of minus five (-5) feet mean low water around private piers serving three residential properties in the North Alanton subdivision, situated along Broad Bay in Virginia Beach. Dredged spoils will be offloaded at a nearby boat ramp and transported to an approved landfill. Recommend a royalty of \$880.20 for the dredging of 1,956 cubic yards at a rate of \$0.45 per cubic yard.

2G. COLONIAL BEACH, TOWN OF, #07-0147, requests authorization to expand an existing public pier by constructing two (2) 11-foot wide by 170-foot long platforms on either side of the pier, immediately landward of an existing T-head platform, each with wheelchair ramps, to serve as a "day-dock" for the temporary mooring of vessels visiting the Town's restaurants and shops, adjacent to Town property situated along the Potomac River in the Town of Colonial Beach, Westmoreland County.

2H. DANVILLE PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY, #05-0775, requests authorization to modify their previous permit for authorization to allow for the installation on one (1) 69 kV and two (2) 12 kV aerial electrical transmission lines over 54 linear feet of Cane Creek in the City of Danville, Pittsylvania County.

2I. QUEENS LAKE COMMUNITY ASSOCIATION, #07-0553, requests authorization to maintenance dredge, by hydraulic method, approximately 800 cubic yards of bottom material, to restore navigable depths to minus four feet (-4.0') at MLW, with a 6" overdredge tolerance, at their existing marina situated along Queens Creek in York County. The material will be mixed with a flocculent (Solve 9330) and pumped into and dewatered by two 1,000 cubic yard capacity TenCate GT 500 Geotubes® with upland disposal. Recommend approval with our standard dredge conditions and a royalty of \$360.00 for the removal of 800 cubic yards of State-owned subaqueous bottom at a rate of \$.45 per cubic yard.

3A. JEFF HEBENSTREIT, #05-2416, requests after-the-fact authorization to retain an open-sided boathouse, constructed approximately 8 feet higher than previously permitted, on his private pier adjacent to 1833 Windy Ridge Road, situated along Broad Bay in the East Alanton subdivision in Virginia Beach. The previously issued permit (Page 2 item approved by the Commission on April 25, 2006) authorized boathouse construction to a maximum height of 20 feet above mean high water. However, the boathouse was constructed to a height of 27.8 feet above mean high water.



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