

MINUTES

Commission Meeting**March 24, 2015**

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 2600 Washington Avenue, Newport News, Virginia with the following present:

John M. R. Bull	Commissioner
Chad Ballard, III A. J. Erskine S. Lynn Haynie Ken Neill, III Whitt G. Sessoms, III John E. Zydron	Associate Members
Matthew Hull	Assistant Attorney General
Laurie Naismith	Director, Public Relations
Katherine Leonard	Recording Secretary
Jane McCroskey Linda Hancock Erik Barth Dave Lego	Chief, Admin-Finance Human Resources Manager Bs. System Manager Bs. System Specialist
Robert O'Reilly Jim Wesson Joe Cimino Stephanie Iverson Lewis Gillingham Samantha Hoover Adam Kenyon Rachael Maulorico Ande Ehlen Alicia Nelson Laurie Dozier Kelsey McLain	Chief, Fisheries Mgmt. Head, Conservation/Replenishment Fisheries Mgmt. Manager, Sr. Fisheries Mgmt. Manager Director, SWFT Fisheries Mgmt. Specialist Biological Sampling Supervisor Fisheries Mgmt. Planner Fisheries Mgmt. Specialist RFAB Coordinator Fisheries Mgmt. Specialist Fisheries Mgmt. Specialist
Rick Lauderman Warner Rhodes Rob Berryman Jamie Green Jamie Hogge Mike Morris	Chief, Law Enforcement Deputy Chief, Law Enforcement Captain, Southern Area Captain, Middle Area Marine Police Officer Marine Police Officer, Sr.

Commission Meeting

**17331
March 24, 2015**

Shawn Hixenbaugh
David Calleance
Brandon Price

Marine Police Officer
Marine Police Officer
Marine Police Officer

Tony Watkinson
Chip Neikirk
Jeff Madden
Hank Badger
Mike Johnson
Randy Owen
Ben Stagg
Justin Worrell
Mark Eversole
Jay Woodward
Justine Woodward
Brad Reamy
Rob Butler

Chief, Habitat Management
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.
Environmental Engineer, Sr.
Program Support Technician
Surveyor, Engineering/Surveying

Virginia Institute of Marine Science (VIMS):

Lyle Varnell

Emily Hein

Mark Luckenbach

Others present:

Rick Jones
Dave Rodman
Tommy Garner
Sherry Lovelace
Terry Bergy
Ryan Croxton
Anthony Marchetti
JoAnn Gregory
Mike Oesterling
Dal Townsell
Carmen DiGiandominico
Kevin Glover
Delores Miller
Jennifer B. Johnson
Robert Topping
Jack Shaw
Doug McMinn

Ellen Edwards
Al Pollard
Tommy Timberlake
Deepak Talreja
Chrissy Garner
David O'Brien
Mark Sanford
Robert Elliott
Andrew Larkin
Keith Austin
B. Alexis DiGiandominico
Neville Reynolds
Janet Miller
William Snyder
Joseph Martin
Susan Conner
Marcellous Sawyer

Terry Taylor
Bob Livengood
Vince Joseph
R Talreja
Travis Croxton
Patrick Oliver
Charlie Gregory
Richard Williamson
Justin Shafer
Stephan Austin
Don Gartrell
Elvin Miller
Craig Palubinski
Ben Mason
Marshall Sawyer
Andy Lacatell

and others.

Commissioner Bull called the meeting to order at approximately 9:40 a.m. Associate Members Beck and Close were absent.

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

Joe Cimino, Fisheries Management Manager, Sr., introduced the new employee of the Fisheries Management Division, Mandatory Reporting Section. Her name is Jill Ramsey.

APPROVAL OF AGENDA: Commissioner Bull asked if there were any changes from the Board members or staff.

Robert O'Reilly, Chief, Fisheries Management Division, explained that there was a format change made to the Item 23, Request for Public Hearing regarding Black Sea Bass.

Commissioner Bull asked for a motion.

Associate Member Zydron moved to approve the agenda, as stated. Associate Member Erskine seconded the motion. The motion carried, 7-0. Chair voted yes.

MINUTES: Commissioner Bull asked if there were any changes or corrections to be made to the February 24, 2015 Commission meeting minutes.

As there were no changes, Commissioner Bull stated that the matter was before the Commission.

Associate Member Erskine moved to approve the minutes. Associate Member Sessoms seconded the motion. The motion carried, 7-0. Chair voted yes.

Commissioner Bull swore in the VMRC staff and VIMS staff that would be speaking or presenting testimony during the meeting.

- 2. PERMITS (Projects over \$500,000 with no objections and with staff recommendation for approval).

Tony Watkinson, Chief, Habitat Management, informed the Commission that there were three page two items to be heard, 2A – 2C. He reviewed them for the Board. His comments are a part of the verbatim record.

Commissioner Bull opened the Public Hearing for any public comments for any of the items presented and there were none. He stated the matter was before the Commission.

Associate Member Neill moved to approve the page two items, as submitted. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.

- 2A. NORFOLK DEPARTMENT OF UTILITIES, #14-1388, requests authorization to install a 36-inch steel raw water main a minimum of 45 feet beneath the substrate utilizing horizontal directional drilling technology and extending across 450 linear feet of the Western Branch of the Elizabeth River between 12 Sandie Point Lane in Portsmouth and the intersection of Bruce Station and Bruce Road in Chesapeake.

Permit Fee	\$100.00
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- 2B. CITY OF VIRGINIA BEACH, #15-0068, requests authorization to maintenance dredge on an as-necessary basis approximately 150,000 cubic yards (per cycle) of State-owned submerged bottom within the City’s Rudee Inlet Outer Channel Deposition Basin, situated in Virginia Beach along the Atlantic Ocean. The Basin will be hydraulically dredged to maximum depths of minus 22 feet mean lower low water, and the dredged material (beach quality sand) will be used as beach nourishment and placed on the City’s adjacent resort beach between Rudee Inlet and 14th Street.

Permit Fee	\$100.00
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- 2C. VIRGINIA ELECTRIC AND POWER COMPANY, #15-0213, requests authorization to replace the fender system protecting two (2) existing Virginia Electric and Power Company Towers that support power lines extending between Isle of Wight County and the City of Newport News in the James River upstream of the Route 17 James River Bridge. Staff recommends approval of the project with a royalty of \$4,914.00 for the encroachment over 2,457 square feet of State-owned subaqueous bottom at a rate of \$2.00 per square foot. Staff also

recommends a special permit condition for a time-of- year restriction of February 15 through July 15 to protect nesting Peregrine Falcons.

Royalty Fee (encroachment 2,457 sq. ft. @ \$2.00/sq. ft.)	\$4,914.00
Permit Fee	\$ 100.00
Total Fees	\$5,014.00

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- 3. **CONSENT AGENDA ITEMS.** There were none.

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- 4. **CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.** When asked, the VMRC Counsel indicated that no closed meeting was necessary.

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- 5. **SEAGATE TERMINALS, L.L.C., #14-1667,** requests authorization to dredge approximately 137,500 cubic yards of State-owned submerged land to achieve maximum depths of -42 feet mean low water, to install 100 linear feet of steel sheet-pile bulkhead, 160 linear feet of riprap revetment, a 550-foot long by 80-foot wide wharf and a 615-foot long by 50-foot wide access dock with four (4) mooring dolphins and associated catwalks, and to construct approximately 600 linear feet of living shoreline in association with a proposed bulk materials handling facility adjacent to Jefferson Street situated north of the South Norfolk Jordan Bridge along the Southern Branch of the Elizabeth River in Chesapeake. The project requires a wetlands and a subaqueous permit. Continued from the February 24, 2015, Commission meeting.

Justine Woodward, Environmental Engineer, Sr., gave the briefing of the information provided in staff’s evaluation with slides. She explained that condition 9 and 10 were added as proposed by the applicant. Her comments are a part of the verbatim record.

Ms. Woodward explained a public hearing for the proposed project was held by VMRC Habitat Management Division at our main office on February 11, 2015. In addition to VMRC Staff, the hearing was attended by Mr. Christopher Frye, with Vanasse Hangen Brustlin, Inc., on behalf of the applicant. No concerns were raised at the public hearing. One day prior to the hearing, however, written comments were received from Kevin Crum, the General Manager for the South Norfolk Jordan Bridge (SNJB), LLC. On their behalf, Mr. Crum expresses concern regarding the proximity of Seagate’s proposed project to the future expansion of the SNJB from a 2-lane (current configuration) to a 4-

lane parallel bridge facility. Consequently, they are reserving their support of Seagate's proposal until they are able to review updated plans.

After evaluating the merits of the project and after considering all of the factors contained in §28.2-1205(A) and §28.2-1302(10)(B), Ms. Woodward stated that staff recommended approval of the project conditioned the purchase of 1,014 square feet of tidal wetlands credits from the Libertyville Mitigation Bank. In addition to the standard dredging permit conditions, Ms. Woodward said that staff recommended the following special permit conditions:

1. Erosion and sediment control measures shall be in conformance with the 1992 Third Edition of the Virginia Erosion and Sediment Control Handbook and shall be employed throughout construction
2. Permittee agrees to restore and monitor for a three-year period, a minimum of 22,803 square feet of vegetated wetlands onsite.
3. Permittee agrees to coordinate all planting activities with VMRC staff including submission of a monitoring plan subject to staff approval, and a final site inspection subsequent to the completion of the planting.
4. Wrack or other floatable marine debris shall be removed as necessary to provide for the health and survivorship of wetland plants.
5. Permittee agrees to deploy a turbidity curtain around the existing oyster reef during dredging activities, including maintenance dredging.
6. Permittee agrees to expand the existing oyster reef by an additional 300 square feet, utilizing concrete or granite materials, in the event that physical damage to the oyster reef occurs during construction. Permittee agrees to coordinate with staff prior to conducting oyster restoration activities. This permit condition may be waived by staff if it is determined that no damage to the reef has occurred following completion of the project.
7. In lieu of a time-of-year restriction, permittee agrees to the use of bubble-curtains surrounding all pile-driving activities from February 15 to June 30.
8. Permittee agrees to a time-of-year restriction for all dredging activities from February 15 to June 30.
9. Permittee agrees to provide South Norfolk Jordan Bridge with a scour analysis (with P.E. certification) characterizing the effects of the proposed dredging on the river bottom in the vicinity of the South Norfolk Jordan Bridge support piles.
10. Permittee agrees to provide South Norfolk Jordan Bridge with plan details and calculations (with P.E. certification) documenting that the fendering proposed by the permittee for bridge pier protection has the capacity to resist impact from vessels of a size and speed reasonable under its range of terminal operating conditions.

According to §28.2-1206(B) of the Code of Virginia, riparian owners of commercial facilities providing services relating to the shipping of domestic or foreign cargo shall be exempt from the payment of rents and royalties with the exception of the royalties associated with the removal of bottom material. Therefore, Ms. Woodward said that staff further recommended a one-time standard royalty payment of \$61,875.00 for the dredging of 137,500 cubic yards of State-owned subaqueous material at a rate of \$0.45 per cubic yard and a permit expiration date of February 24, 2020.

After some discussion, Commissioner Bull opened the public hearing.

Kevin Clover, President, Seagate, was sworn in and his comments are a part of the verbatim record. Mr. Clover asked the Commission to support the application being considered. He said they supported industries in the Commonwealth of Virginia with the importing and exporting of agricultural products. He stated they needed the Commission approval to be able to meet their deadlines.

Commissioner Bull closed the public hearing and stated the matter was before the Commission.

Associate Member Zydron moved to approve the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 7-0.

Royalty Fee (dredge 137,500 cu. yds. @ \$0.45/cu. yd.)	\$61,875.00
Permit Fee	\$ 100.00
Total Fees	\$61,975.00

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- 6. **TOMMY GARNER, #12-1423**, requests authorization to install a 5-foot wide open pile private pier extending 220 feet channelward of mean low water with a 6-foot wide L-head and two (2) associated mooring piles along Deep Creek extending from an existing water access easement at 632 Snug Harbor Lane in the City of Newport News. The project is protested by the property owner and an adjacent property owner.

Tony Watkinson, Chief, Habitat Management gave the briefing of the information provided in the staff’s evaluation with slides. His comments are a part of the verbatim record.

After evaluating the merits of the project against the concerns expressed by those in opposition to the project, and after considering all of the factors contained in §28.2-1205 of the Code of Virginia, Mr. Watkinson stated staff recommended approval of the project as proposed.

After some discussion, Commissioner Bull opened the public hearing.

Thomas Garner, applicant, was sworn in and his comments are a part of the verbatim record. Mr. Garner explained that this had been a long process and there were others with easements like his in the area. He stated the Edwards deed showed the easement. He said he did what he was required to do. He stated he was requesting approval.

Thomas Timberlake, nearby resident, was sworn in and his support comments are a part of the verbatim record.

Rick Jones, representative for Ms. Edwards, was sworn in and his comments are a part of the verbatim. Mr. Jones explained that Ms. Edwards and her family have lived in the area for 25 years. He stated that since 1959 the subsequent deeds do not include piers they only include the easement to the water. He said there was a Court Order last month which was being appealed to the Supreme Court and he asked that this be continued until after the court process was completed. He stated that if the pier was approved that it be limited to 110 feet in length, no mooring piles should be allowed, and it not be attached at the shoreline where the drainage ditch area is located as there were unresolved problems with the drainage.

Vincent Joseph, adjoining property owner, was sworn in and his comments are a part of the verbatim record. Mr. Joseph stated that they were concerned that this pier would be six inches from their property. He said that Mr. Edwards had asked them not to build a pier, but to use his pier. He said they were concerned with the clutter and were opposed to the pier.

Terry Joseph, adjoining property owner, was sworn in and her comments are a part of the verbatim record. Ms. Joseph said that she was also concerned with the closeness of the pier to their property. She said the location is at the drainage area and there were already problems with the drainage. She said she did not want the pier next to their yard.

Bob Livengood, contractor and agent for the applicant, was sworn in and his comments are a part of the verbatim record. Mr. Livengood stated the structure was 25 feet near the property line and more shoreline was available.

Mr. Garner in his rebuttal comments stated he has an easement across the property as it was stated in the deed. He stated the court order said he could have this pier and to address some concerns expressed he said that his agent told him that the drainage was not a problem.

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

After much discussion, Associate Member Zydron stated that the Edwards who were the protestants had appealed the Circuit Court decision so the matter was now in the Supreme Court and he felt the Commission should wait. He moved to continue the matter. Associate Member Erskine seconded the motion. The motion carried, 5-2. Chair voted yes. Associate Members Haynie and Sessoms both voted no.

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7. **STEPHEN AUSTIN, #14-0867**, requests authorization to construct a 15-foot by 18-foot gazebo roof structure and to construct a 16-foot by 36-foot open-sided boathouse roof structure to shelter a single boat at his property situated along the Pagan River, in the Town of Smithfield, in Isle of Wight County. The roof structures are protested by both adjacent property owners.

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

While staff is sensitive to the concerns of the adjacent property owners, the proposal appeared to be consistent with other similar requests for such structures. In fact, had the neighbors not objected to the proposal, the structures would have met the exemption for open-sided boathouses and shelters provided in §28.2-1203(A)(5) of the Code of Virginia. After evaluating the merits of the request, the protestants concerns, and after considering all of the factors contained in §28.2-1205(A) of the Code of Virginia Mr. Stagg said that staff recommended approval of the gazebo roof and boathouse roof structures as proposed.

Bob Livengood, contractor and agent for the applicant, was previously sworn in and his comments are a part of the verbatim record. Mr. Livengood stated that 75 feet to the right was the lowest part of the elevation and the location of the pier. He requested time later to provide rebuttal testimony.

Commissioner Bull opened the public hearing. He asked for comments in support of the project and there were none. He asked for comments from those present who opposed the project.

Sherrie Lovelace, was sworn in and her comments are a part of the verbatim record. Ms. Lovelace stated they were not opposed to the pier only the large size of the structure and the roofs that were proposed. She said it would impact their view and the private oyster ground lease, as well as, the environment. She said it could not be seen at high tides only at low tides. She stated there was no value of extending the pier and requested that it be shortened to 50 feet in length. She had a picture and a letter from Janice Scott in opposition as a handout.

William Snyder, adjoining property owner, was sworn in and his comments are a part of the verbatim record. Mr. Snyder stated that he had some concerns with the project.

Mr. Livengood said in his rebuttal comments that the water depth was an average of three feet; the pier was 75 feet off the property, and not being built over an oyster reef. He explained that whatever type of roof used would be all the same except for a flat roof would need to be higher to allow for the vessel and equipment.

Commissioner Bull stated the matter was before the Commission.

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

Permit Fee	\$100.00
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- 8. ROBERT and JANE ELLIOTT, #14-1414,** request authorization to install 45 linear feet of Class II armor stone riprap against an existing revetment, which will extend four feet channelward of mean low water, place approximately 30 cubic yards of beach nourishment, and install a 20-foot long by 14-foot wide, breakwater, adjacent to property situated along Judith Sound in Northumberland County. The project is protested by both adjacent property owners.

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

Mr. Madden explained the proposed project is located in a dynamic, high energy environment. While the preferred approach for shoreline stabilization would be to take a reach approach to the shoreline protection, utilizing an extensive breakwater system spanning the entire sound, much of the shoreline is already hardened with bulkheads and revetments so a comprehensive breakwater approach is unlikely. The installation of a Class II riprap revetment and a backfilled breakwater is consistent with shoreline protection strategies used elsewhere in the region. Staff concurs with VIMS that the 30 cubic yards of beach nourishment is not likely to negatively impact navigation in the vicinity of the neighbor's pier. Additionally, it appeared to staff that the short breakwater located in close proximity and perpendicular to the Pollard's existing groin should serve as both a breakwater and a spur to deflect wave energy traveling along the face of the groin and contributing erosion of the applicant's shoreline. Spurs are often recommended along groins located near a property line to minimize adverse impacts on adjacent properties.

After evaluating the merits of the project against the concerns expressed by the individuals in opposition, and after considering all of the factors contained in §28.2-1205

of the Code of Virginia, Mr. Madden stated staff recommended approval of the project, as revised.

Commissioner Bull asked the applicant to comment.

Craig Palubinski, contractor and agent with Bayshore Design Inc., was sworn in and his comments are a part of the verbatim record.

Robert Elliott, applicant was sworn in and his comments are a part of the verbatim record. Mr. Elliott stated that he hired a contractor and as he hired a professional he asked that it be built so it would be acceptable.

Commissioner Bull asked for comments in support.

Mr. Richard Williamson, representing the Homeowners Association, was sworn in and his comments in support are a part of the verbatim record. Mr. Williamson stated that 21 of the 30 residents contacted said they supported the project.

Commissioner Bull asked for comments in opposition.

Carmen DiGiandominico, protestant, was sworn in and his comments are a part of the verbatim record. Mr. DiGiandominico provided the board with a handout. He explained that there was to the northeast a 17-mile fetch and during storms conditions were very bad. He said he did not get to comments on the revised drawings. He noted that since 1961 fifty feet of waterfront had been lost from when the septic lines had been installed. He said he was opposed to what was proposed and suggested that a revetment would be more appropriate.

Al Pollard, adjoining property owner was sworn in and his comments are a part of the verbatim record. He said the property adjacent to Mr. Elliott was empty as there was no house. He said he protested the original drawing and he never received the new drawing. He said the breakwater would not protect the property from erosion and it would only make it worst for his property. He noted that VIMS had not reviewed the new drawing.

Mr. Palubinski explained that he was trying to protect the septic line and looking at the VIMS decision tools for a living shoreline. The topography would not fit a revetment. He stated in Northumberland County there was no mitigation bank.

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

After some discussion, Associate Member Erskine asked if VIMS staff could comment.

Lyle Varnell, representing VIMS, stated the proposal was reasonable approach and still maintained access. He said the offshore structure would abate the wave action as this was a high energy exposed shoreline. He said the size of storms would be an issue here as it was a challenging area with small lots. He said it would be necessary to maintain the sand and placement of sand would be necessary after large weather events.

Commissioner Bull stated the matter was before the Commission.

Associate Member Neill moved to accept the staff recommendation of approval as revised. Associate Member Erskine seconded the motion. The motion carried, 7-0. Chair voted yes.

Royalty Fee (fill/nourishment 60 sq. ft. @ \$0.05/sq. ft.	\$ 3.00
Permit Fee	\$100.00
Total Fees	\$103.00

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- 9. **RAPPAHANNOCK OYSTER COMPANY, #15-0031**, requests authorization to cover two (2) existing open-pile deck structures with an open-sided roof, construct open-pile decking over a 30-foot wide by 80-foot long existing boat slip area, and install six (6) mooring piles to secure a 60-foot long by 30-foot wide floating, paddlewheel upweller barge at their oyster aquaculture facility on Locklies Creek at 784 Locklies Creek Road in Middlesex County. The project is protested by several nearby property owners.

Jay Woodward, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation with slides. He provided a handout of the letter from Roger C. Hopper, attorney for the protestants, advising the Commission that he could not be present at this hearing, but he did not request a continuance of the hearing. His comments are a part of the verbatim record.

Mr. Woodward stated staff recommended approval of the project, as proposed, with a royalty in the amount of \$4,500.00 for the commercial encroachment over 3000 square feet of State-owned submerged land at the prescribed rate of \$1.50 per square foot for the new decking and roof structures, and an additional royalty in the amount of \$90.00 for the encroachment of the floating, paddle wheel upweller assessed at the prescribed rate of \$0.05 per square foot for a total \$4,590.00. In addition, staff recommends that the Commission require the applicants to remove all derelict pilings and other failed structures located to the east of the existing eastern dock prior to the commencement of any newly authorized construction. Staff believed this to be a reasonable condition pursuant to the requirements of the Code, and will be more practical and cost effective to

accomplish while construction equipment is deployed in the area for the proposed expansion.

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

Ryan Croxton, co-applicant, was sworn in and his comments are a part of the verbatim record. Mr. Croxton said they proposed to modify the cover over the deck to a flat roof. He noted there was transient traffic in this area with the public boat dock. He said they would be willing to remove the sunken boat if the Commission would consider an adjustment to the royalty fees.

Travis Croxton, co-applicant, was sworn in and his comments are a part of the verbatim record. Mr. Croxton said that there was a handshake agreement with the county for the charter boat operator to use the public boat dock. He said the area was zoned commercial and they were working within the existing footprint. He said for any future plans they would be working with the State and Federal governments. He said they had made a change in the proposed roof to lessen the impact on the view.

Elvin Miller, Janet Miller, and Delores Miller, protestants were sworn in and their comments in opposition are a part of the verbatim record. They all expressed concerns related to zoning, the adjacent County public dock/landing, noises and smell, value of highland properties, increased activity, and riparian rights. Mr. Woodward noted that several recent email protests had also been received. They noted objections similar to those of the Millers.

Ryan and Travis Croxton in their rebuttal comments reiterated that they were working within the footprint of the existing structures and they could revise the roof so as to minimize the impacts to view. They noted that the restaurant was not a part of the oyster operation.

Commissioner Bull stated that the matter was before the Commission for discussion or action.

Associate Member Neill asked about the removal of the sailboat in lieu of the royalty fees being charged.

Tony Watkinson, Deputy Chief, explained that the applicants were paying to be on state-owned bottomland and the charge was for that ongoing use. He said the issue of the sunken boat was a different issue with different cost.

After further discussion, Commissioner Bull stated the matter was before the Commission.

Associate Member Erskine moved to accept the staff recommendation. Associate Member Sessoms seconded the motion. The motion carried, 7-0. Chair voted yes.

Royalty Fee (encroach 3,000 sq. ft. @ \$1.50/sq. ft.)	\$4,500.00
Royalty Fee (encroach 1,800 sq. @ \$0.05/sq. ft.)	\$ 90.00
Permit Fee	\$ 100.00
Total Fees	\$4,690.00

- 10. VIRGINIA ELECTRIC AND POWER COMPANY, #14-0968**, requests authorization to install a 34.5 kV submarine export cable under State-owned submerged bottomlands within the Atlantic Ocean from the Camp Pendleton State Military Reservation shoreline in Virginia Beach to the three nautical mile boundary of the Commonwealth’s territorial sea. The export cable will be a portion of the line that will transmit electrical power from two (2) 6-MW wind turbine generators to be constructed in federal waters approximately 24 nautical miles offshore to support the Virginia Offshore Wind Technology Advancement Project (VOWTAP).

Justin Worrell, Environmental Engineer, Sr., gave the briefing for the information provided in the staff’s evaluation with slides. His comments are a part of the verbatim record. He provided a handout of an e-mail from representatives of the applicant saying that no one would be at the hearing and that they agreed with staff’s evaluation and recommendation.

Mr. Worrell noted the Commission staff did not receive any public protests or inquiries regarding the proposal, and no agency concerns were raised relative to the Commission’s jurisdiction. Ultimately, he explained that staff recommended approval with a royalty of \$54,684.00 for the crossing of 18,228 feet of State-owned submerged bottomlands at a rate of \$3.00 per linear foot.

Commissioner Bull opened the public hearing and there were no public comments. He stated the matter was before the Commission.

Associate Member Erskine moved to accept the staff recommendation. Associate Member Sessoms seconded the motion. The motion carried, 7-0. Chair voted yes.

Royalty Fee (encroachment 18,228 lin. ft. @ \$3.00/lin. ft.)	\$54,684.00
Permit Fee	\$ 100.00
Total Fees	\$54,784.00

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11. **CHARLIE R. GREGORY, #2014-004**, requests authorization to lease approximately one acre of oyster planting grounds in Broad Bay in the City of Virginia Beach. The application is protested by a nearby adjacent highland property owner.

Ben Stagg, Environmental Engineer, Sr., gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record. He provided the Board with four handouts.

Mr. Stagg indicated staff believed that leasing the area for both cage and traditional aquaculture activities would conflict with the stated existing and future uses of Mr. Talreja's riparian area within the entire 0.74 acre lease area. Therefore, staff recommended denial of the application. Should the Commission agree and deny the application, staff recommended allowing Mr. Gregory thirty days in which to remove any existing cages and shellfish within this area. Staff also recommended refunding the cost of the survey, the recording and assignment fee, and the ground rent for both the 2014 and 2015 rent years already paid on this parcel. This amount totaled \$690.63.

Commissioner Bull asked if the applicant wished to comment.

Charles Gregory, applicant, was sworn in and his comments are a part of the verbatim record. Mr. Gregory stated this was applied for one year ago and followed the public notification for 30 days after which it was assigned. He said it was not appropriate to bring this back before the Commission because of the visual complaint in front of the protestant's house. He said he did all that he was supposed to do.

Joan Gregory, mother of the applicant, was sworn in and her comments are a part of the verbatim record. Ms. Gregory said that her son was trying to expand his business because he was using the Sanford lease which was not big enough to add more cages. She stated there was nowhere else at this time for the cages and oysters to be taken and he would lose his investment.

Commissioner Bull asked if anyone in opposition wished to speak.

Deepak Talreja, property owner and protestant, was sworn in and his comments are a part of the verbatim record. Mr. Talreja said that he had purchased the property in 2012 and now he wished to build a pier. He stated that this was a very active area recreationally. He said he was concerned for the safety of his family as well as his neighbors.

R. Talreja, father of the property owner and protestant, was sworn in and his comments are a part of the verbatim record. Mr. Talreja said he had built the house 40 years ago and he was concerned with the view of the cages. He stated that there had been no

notification of the property owner before the lease was approved. He said he even offered to help pay for an alternative site.

Commissioner Bull stated the matter was before the Commission.

After much discussion, Associate Member Sessoms moved to deny the current lease and allow Mr. Gregory to relocate the cages to the ground currently under application for lease within 30 days and continue the lease application process for the new ground. He added that this included a refund as recommended by staff. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.

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12. PUBLIC COMMENT: There were no public comments.

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13. OFFENDERS.

Joseph E. Martin - present and sworn in

David Drummond, Marine Police Officer reviewed the case for the Commission as to the offenses and convictions as provided in the staff's evaluation. His comments are a part of the verbatim record.

Possession of Undersize Peelers (21) in One Bushel – summons issued August 30, 2013 pursuant to Code Section 28.2-201 and Chapter 20-270-55; convicted October 9, 2013 in the Accomack County General District Court (Criminal), fine \$50.00, Court Cost \$116.00.

Possession of Unculled Crabs (42+) in one bushel – summons issued August 8, 2014 pursuant to Code Section 28.2-201 and Chapter 20-270-20; convicted September 10, 2014 in Accomack County General District Court (Criminal), find \$100.00, court cost \$121.00.

Mr. Martin said that he had been crabbing for 30 years and he didn't realize that he could not possess any undersized peelers. He acknowledged that it was in the laws and regulations.

Joe Cimino, Fisheries Management Senior Manager, read the staff recommendation. In accordance with Code Section 28.2-232, staff recommended the Commission place Mr. Martin on probation for a period of one year from the date of this Commission meeting, March 24, 2015 through March 23, 2016. According to the Commission's guidelines for

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sanctions, two convictions of possess of more than 20 undersized crabs per bushel, within a 24 month period, recommends on year probation. Any failure on Mr. Martin's part to obey any of the laws or regulations relating to the Marine Resources of the Commonwealth during the one year probation would result in Mr. Martin appearing before the Commission for a hearing on license revocation.

Commissioner Bull stated the matter was before the Commission.

Associate Member Erskine moved to accept the staff recommendation for one year probation, starting March 24, 2015 through March 23, 2016. Associate Member Haynie seconded the motion. The motion carried, 7-0. Chair voted yes.

Robert K. Topping, Jr. – was present and sworn in.

Brandon Price, Marine Police Officer, was sworn in and gave the briefing of the summons and convictions as provided in the staff's evaluation. His comments are a part of the verbatim record.

Taking oysters from Condemned Area; summons issued January 12, 2015 pursuant to Code Section 28.2-810; convicted January 27, 2015 in Newport News General District Court (Criminal), find \$50.00, court cost \$91.00.

Removing Oysters from Condemned Area during Closed Season; summons issued January 27, 2015 pursuant to Code Section 28.2-816; convicted January 27, 2015 in the Newport News General District Court (Criminal), find \$50.00, court cost \$30.00

Robert Butler, Surveyor-Engineering and Surveying, was sworn in and his comments are a part of the verbatim record. Upon questioning, Mr. Butler stated that he plotted the location of Mr. Topping's vessel as being 187 feet inside of the condemned area and he used the Law Enforcement equipment to plot the location of Mr. Topping's vessel because he was familiar with the equipment and trusted it to be accurate.

Ben Mason, Attorney for the defendant, was present and his comments are a part of the verbatim record.

Mr. Topping in response to questioning from his attorney stated he had harvested for ten years in this area and was never aware of the area being condemned.

Keith Skiles, Director of the VDH-Division of Shellfish Sanitation was sworn in and his comments are a part of the verbatim record. Mr. Skiles explained that he condemned area was a closure to protect the public health and they had done a lot of testing and modeling. Any risk to the public health would impact the industry. When questioned, Mr. Skiles stated that they designate the area and the MRC Law Enforcement personnel place the

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markers where the risk is the greatest and this area had been condemned status for 20 years.

After further discussion, Joe Cimino, Fisheries Management Senior Manager, read the staff recommendation into the record. In accordance to the Commission's guidelines for sanctions, one conviction of harvesting oysters from a condemned area or during a closed public season, within a 12-month period, recommends a one year revocation. In accordance with Code Section 28.2-232, staff recommends the Commission revoke all of Mr. Topping's licenses to take or catch fish, shellfish, or marine organisms for a period of one year from the date of the Commission meeting, March 24, 2015 through March 23, 2016. Staff also recommended that the Commission revoke Mr. Topping's fishing privileges, within the Commonwealth's tidal waters, for a period of one year from the date of the Commission meeting, March 24, 2015 through March 23, 2016.

Commissioner Bull stated the matter was before the Commission.

Associate Member Ballard moved to accept the staff recommendation for one year revocation of all licenses and fishing privileges, starting March 24, 2015 through March 23, 2016. Associate Member Neill seconded the motion. The motion carried, 7-0. Chair voted yes.

Dal M. Townsell, Jr. – was present and sworn in.

Mike Morris, Marine Police Officer, Sr., was sworn in and gave the briefing of the summons and convictions as provided in the staff's evaluation. His comments are a part of the verbatim record.

Hand Scraping Oysters in the James River without a Current permit for the season; summons issued on November 10, 2014 pursuant to Code Section 28.2-201 and Chapter 4VAC 20-720-90 convicted November 20, 2014 in the Isle of Wight County General District Court (Criminal), fine \$25.00, court cost \$89.00.

Taking and Possession of Unculled Oysters from Public Rocks (9 quarts); summons issued December 15, 2014 pursuant to Code Section 28.2-510; convicted January 15, 2015 in Isle of Wight County General District Court (Criminal), fine \$150.00, court cost \$89.00.

Over Commercial Limit of Oysters from the Public Scrape Rocks (8 bushels); summons issued on December 15, 2014 pursuant to Chapter 4VAC20 720-80; convicted January 15, 2015 in the Isle of Wight County General District Court (Criminal), fine \$200.00, court cost \$28.00.

Upon questioning, Mr. Townsell stated he thought it was valid for 12 months, not the calendar year.

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Joe Cimino, Fisheries Management Senior Manager, read the staff recommendation. In accordance with Code Section 28.2-232, staff recommended the Commission place Mr. Townsell on probation for a period of one year from the date of this Commission meeting, March 24, 2015 through March 23, 2016. According to the Commission's guidelines for sanctions, two convictions of harvesting oysters without a gear license, with a 12 month period, recommends one year probation. One conviction of catching more than 50% over the limit of shellfish or possession of more than 100% over the tolerance of undersized shellfish, within a 12 month period, recommends a one year probation. Any failure on Mr. Townsell's part to obey any of the laws or regulations relating to the Marine Resources of the Commonwealth during the one year probation would result in Mr. Townsell appearing before the Commission for a hearing on license revocation.

Associate Member Erskine stated that he heard from the testimony that Mr. Townsell was new to the fishery and misunderstood what was required and he moved to place Mr. Townsell on six months probation, starting March 24, 2015 through September 23, 2015. Associate Member Haynie seconded the motion. The motion carried, 6-0. Chair voted yes. Associate Member Zydron left the meeting for the rest of the day during this hearing.

Brandon Price, Marine Police Officer, gave the briefing of the summons and convictions for both Marshall and Marcellous Sawyer as provided in the staff's evaluation. His comments are a part of the verbatim record.

Marshall Sawyer and Marcellous Sawyer - were both present and sworn in.

Over Limit Rockfish (9); summons issued December 15, 2014 pursuant to Code Section 28.2-201 and Chapter 20-252-50; convicted January 26, 2015 in the York County General District Court (criminal), fine \$100.00, court cost \$86.00.

Undersize Rockfish (3); summons issued December 15, 2014 pursuant to Code Section 28.2-201 and Chapter 4VAC 20-252-90; convicted January 26, 2015 in the York County General District Court (criminal), fine \$75.00, court cost \$35.00.

Joe Cimino, Fisheries Management Senior Manager, read the staff recommendation. In accordance with Code Section 28.2-201, staff recommended the Commission place Mr. Marshall Sawyer and Mr. Marcellous Sawyer on probation for one year from the date of Commission meeting, March 24, 2015 through March 23, 2016. According to the Commission's guidelines for sanctions, one conviction of exceeding the recreational possession limit by 100% or three fish over the limit (whichever is greater), within a 12 month period, recommends one year probation. Any by either Mr. Sawyer's part to obey any laws or regulations relating to the Marine Resources of the Commonwealth during the one year probation would result in them appearing before the Commission for a hearing on license revocation.

After some discussion, Associate Member Erskine stated that he felt that they both understood their mistake and moved to accept the staff recommendation for one year probation, starting March 24, 2015 through March 23, 2016. Associate Member Ballard seconded the motion. The motion carried, 5-1. Chair voted yes. Associate Member Neill voted no.

Shawn Hixenbaugh, Marine Police Officer gave the briefing of the summons and convictions which was provided in the staff's evaluation. His comments are a part of the verbatim record.

John Shiver - was present and sworn in.

Possession of One Undersized Striped Bass; summons issued on December 17, 2014 pursuant to Code Section 28.2-201 and Chapter 4VAC 20-252-140, convicted on January 26, 2015 in the York County General District Court (Criminal), fine \$35.00, court cost \$25.00.

Possession of Over the Limit Striped Bass (6 in possession); summons issued on December 17, 2014 pursuant to Code Section 28.201 and Chapter 4VAC 20-252-90; convicted on January 26, 2015 in the York County General District Court (Criminal), fine \$100.00, court cost \$86.00.

Jack Shiver stated that he did do what he was charged with and he does know the law. His comments are a part of the verbatim record.

Joe Cimino, Fisheries Management Senior Manager read the staff recommendation. In accordance with Code Section 28.2-232, staff recommends the Commission place Mr. Shiver on probation for a period of one year from the date of this Commission meeting, March 24, 2015 through March 23, 2016. According to the Commission's guidelines for sanctions, one conviction of exceeding the recreational possession by 100% or three fish over the limit (whichever is greater), within a 12 month period, recommends a one year probation. Any failure on Mr. Shiver's part to obey any of the laws or regulations relating to the Marine Resources of the Commonwealth during the one year probation would result in Mr. Shiver appearing before the Commission for a hearing on license revocation.

After some discussion, Associate Member Haynie moved to accept the staff recommendation for one year probation, starting March 24, 2015 through March 23, 2016. Associate Member Erskine seconded the motion. The motion carried, 5-1. Chair voted yes and Associate Member Neill voted no.

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- 14. PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-20-10 et seq. "Pertaining to Licensing of Fixed Fishing Devices" to amend the gear management measures for pound nets to comply with the bottlenose dolphin take reduction plan and the endangered species act for sea turtle take conservation areas.

Alicia Nelson, RFAB Coordinator, gave the briefing of the information provided in the staff's evaluation. Her comments are a part of the verbatim record.

Staff recommended amending Chapter 4 VAC 20-20-10 et seq. "Pertaining to Licensing of Fixed Fishing Devices" to comply with the provisions of the final rule from NMFS for Virginia pound net gear under the MMPA and ESA, which required year-round use of modified leaders for Pound Net Area 1 and coastal waters of Virginia.

Commissioner Bull asked for public comments and there were none. He stated the matter was before the Commission.

Associate Member Erskine moved to accept the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 6-0. Chair voted yes.

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- 15. PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-650-10 et seq. "Establishment of Oyster Sanctuary Areas" to designate all unassigned or vacant submerged bottom, designated as restricted shellfish areas or prohibited shellfish areas by the Virginia Department of Health, as oyster sanctuaries.

James Wesson, Head, Conservation and Replenishment, gave the briefing of the information provided in the staff's evaluation with slides. His comments are a part of the verbatim record. Dr. Wesson noted that if not all condemned water areas, the Commission still needs to approve this for the Lafayette River area.

Staff recommended adoption of amendments to Chapter 20-650-10 et seq., "Establishment of Oyster Sanctuary Areas" to designate as oyster sanctuaries and prohibit leasing of all unassigned or vacant submerged bottom that has been condemned by the Virginia Department of Health, Division of Shellfish Sanitation and classified as either "restricted" or "prohibited" for the direct harvest of shellfish.

Captain Robert Berryman, supervisor for the Southern Area, Law Enforcement, stated that manpower for all that needed to be done was limited and it was hard to keep up with supervision of the relaying these shellfish.

After much discussion, Commissioner Bull opened the public hearing.

Andrew Larkin, representing NOAA, was present and his comments in support of the proposed regulation are a part of the verbatim record.

Susan Conner, representing Army Corps of Engineers, Oyster Restoration Management, was present and her comments in support are a part of the verbatim record. She stated they supported the entire regulation and especially the Lafayette River area.

Chris Moore, representing the Chesapeake Bay Foundation, was present and his comments in support of the entire proposed regulation are a part of the verbatim record. He said he especially supported this be done for the Lafayette River area.

Mike Osterling, representing Shellfish Growers of Virginia, was present and his comments in opposition are part of the verbatim record. He stated that the Commission has the authority to deny lease applications on a case by case basis even if it were not protested, but because it was not in the best interest of the Commonwealth. He added the Commission needed to use their authority as it now existed and the use of the word sanctuary was a scary word to most people.

Douglas McMinn, representing the Chesapeake Bay Oyster Company and the Virginia Seafood Council and his comments are a part of the verbatim record. He explained that these restrictions would impact the oyster industry and could result in unintended consequences. He stated that the Commission needed to handle the bad actors and tighten up the leasing application process

Keith Skiles, Director, VDH-Division of Shellfish Sanitation, was present and his comments in support of the regulation are a part of the verbatim record. He said the process mostly involved the Law Enforcement and there was concern with the growth of the industry. He said allowing the leasing of these areas would give the bad actors more opportunity. In response to questions: he said there were no depuration plants and it would involve a lot of oversight the same as relaying; the majority of the acreage for these condemned area do not change; he noted the areas were evaluated each year and stayed the same for a while; and they monitored the fecal contaminates from the highland run off in these condemned areas.

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

Robert O'Reilly, Chief, Fisheries Management, suggested the public hearing requirement for such action had been met here at this meeting and that a final decision could be delayed until a later time.

After much discussion, Associate Member Erskine moved to approve the restriction of general planting ground leases being allowed in all condemned shellfish area, to

include the Lafayette River and to have staff change the word ‘sanctuary’ to a more appropriate word.

Mr. O’Reilly suggested that a new regulation be established, which would be Chapter 4VAC 20-1290-10.

Associate Member Neill seconded the motion. The motion carried, 6-0. Chair voted yes.

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- 16. **PUBLIC HEARING:** Proposed final adoption of emergency amendments to Chapter 4 VAC 20-720-10 et seq. “Pertaining to Restrictions on Oyster Harvest” to temporarily suspend the sale of any oyster hand scrape and oyster dredge gear licenses.

James Wesson, Head, Conservation and Replenishment, gave the briefing of the information provided in the staff’s evaluation with slides. His comments are a part of the verbatim record.

Staff recommended adoption of previous emergency amendments to 4VAC-720-10 et seq., “Pertaining to Restrictions on Oyster Harvest” to make permanent the suspension of the sale of hand scrape and dredge licenses until the Commission reinstates the sale of those licenses. This license suspension will only apply to those individuals who had not previously purchased either of these gear licenses, in any calendar year, prior to February 24, 2015.

Commissioner Bull opened the public hearing. There were no public comments. He stated the matter was before the Commission.

Associate Member Erskine moved to accept the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 6-0. Chair voted yes.

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- 17. **PUBLIC HEARING:** Proposed amendments to Chapter 4 VAC 20-252-10 et seq. "Pertaining to the Taking of Striped Bass", to establish the annual Chesapeake Bay and Coastal recreational management measures, modify the commercial striped bass tag possession requirements by area, reestablish the lawful methods for harvesting striped bass commercially, and modify the administrative dates for permanent and temporary commercial transfers of individual striped bass weight quota.

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

Staff recommended the Commission adopt proposed amendments to Chapter 4 VAC 20-252-10 et seq. "Pertaining to the Taking of Striped Bass", establishing the annual Chesapeake Bay recreational minimum size limit as 20-inches total length with a 2-fish limit, maintaining Coastal recreational minimum size limit of 28-inches total length with a one fish per person per day possession limit, modifying the commercial striped bass tag possession requirements for the Great Wicomico-Tangier Striped Bass Management Area, reestablishing the lawful gear for harvesting striped bass commercially, and modifying the administrative dates for permanent and temporary commercial transfers of individual striped bass weight quota.

Associate Member Neill stated that he and the angler club members support the staff recommendation.

Commissioner Bull opened the public hearing. There were no public comments.

Associate Member Neill moved to accept the staff recommendation. Associate Member Erskine seconded the motion. The motion carried, 6-0. Chair voted yes.

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18. REQUEST FOR EMERGENCY REGULATION: Proposed emergency Chapter 4 VAC 20-252-10 et seq., Pertaining to the Taking Of Striped Bass", to establish the coastal area and Chesapeake area trophy-size striped bass minimum possession size limit of 36 inches total length.

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

As provided by §28.210 of the Code of Virginia for the preservation of the public welfare, staff recommended the Commission establish Emergency Chapter 4 VAC 20-252-10 et seq. "Pertaining to the Taking of Striped Bass" to establish the coastal area and Chesapeake area trophy-size striped bass minimum possession size limit of 36 inches total length. Staff also recommended that this be advertised for a public hearing to make it a permanent part of the regulation.

Associate Member Erskine moved to accept the staff recommendation. Associate Member Neill seconded the motion. The motion carried, 6-0. Chair voted yes.

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19. **REQUEST FOR EMERGENCY REGULATION:** Proposed emergency Chapter 4 VAC 20-252-10 et seq. "Pertaining to the Taking of Striped Bass" to delay the start of the 2015 Chesapeake Bay 28-inch commercial striped bass maximum size limit that begins March 26 until April 2 and corresponding proposed emergency Chapter 4 VAC 20-751-10 et seq. "Pertaining to Setting and Mesh Size of Gill Nets" to modify the gill net mesh size seasons.

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

Staff recommended the Commission adopt emergency amendments to 4 VAC 20-252-10, et seq., "Pertaining to the taking of Striped Bass", to delay the start of the 2015 Chesapeake Area commercial striped bass maximum size limit of 28 inches from March 26 until April 2. Staff also recommended the adoption of proposed emergency Chapter 4 VAC 20-751-10, "Pertaining to setting and Mesh Size of Gill Nets", to modify the gill net mesh size seasons.

Commissioner Bull asked for the Commission's preference to the matter.

Associate Member Neill stated he was opposed to allowing another week for the fishermen to target a species of finfish on the way to the spawning ground.

After some discussion, Associate Member Haynie moved to accept the staff recommendation. Associate Member Erskine seconded the motion. The motion carried, 5-1. Chair voted yes. Associate Member Neill voted no.

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20. **REQUEST FOR EMERGENCY REGULATION:** Proposed emergency amendments to Chapter 4 VAC 20-1090-10 et seq. "Pertaining to License Requirements and License Fees" to lower recreational fishing license fees.

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

Staff recommended the Commission adopt emergency amendments to Chapter 4 VAC 20-1090-10 et seq. "Pertaining to License Requirements and License Fees" to lower recreational license fees to pre 2015 levels and schedule a public hearing for the April 28, 2015 Commission meeting to establish the 2015 recreational license fees.

Associate Member Neill stated that he felt that the general public would appreciate the reduction of the fees to be done as soon as possible. He said the angler’s club was split on its support of this amendment.

Associate Member Erskine moved to accept the staff recommendation. Associate Member Sessoms seconded the motion. The motion carried, 6-0. Chair voted yes.

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21. REQUEST FOR EMERGENCY REGULATION: Proposed emergency Chapter 4 VAC 20-1280-10 et seq. “Pertaining to License Revocations” to establish penalties for individuals who violate a Commission issued revocation of fishing licenses.

Robert O’Reilly, Chief, Fisheries Management gave the briefing for the information provided in the staff’s evaluation. His comments are a part of the verbatim record. He noted that this would be Emergency Chapter 4VAC 20-1280 et seq., “Pertaining to License Revocations” and this was requested by Commissioner Bull and the Law Enforcement Division.

The reason this is an emergency request is that those individuals who continue to harvest, while under revocation from the Commission, will be forced back into the court system, once an officer cites them under this emergency regulation. This process may also allow the courts to recognize the seriousness of these additional and earlier offenses. Especially, concerning shellfish, this emergency is necessary to protect public health and ensure resource conservation (see Section 28.2-210 of the Code of Virginia). Mr. O’Reilly said that staff recommended the approval of this emergency Chapter and to advertise for an April public hearing.

Associate Member Erskine stated this was a good thing and moved to accept the request by staff for this emergency action and the advertisement of a public hearing at the April meeting. Associate Member Neill seconded the motion. The motion carried, 6-0. Chair voted yes.

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22. REQUEST FOR AN EMERGENCY REGULATION: 4 VAC-20-620-10, “Pertaining to Summer Flounder”, to close the summer flounder commercial offshore fishery on April 19th, to prevent a quota overage.

Joe Cimino, Fisheries Management Senior Manager, gave the briefing of the information in the staff’s evaluation. His comments are a part of the verbatim record.

As provided by §28.210 of the Code of Virginia for the immediate protection of the seafood industry, staff requests the Commission establish Emergency Chapter 4 VAC 20-620-10 et seq. "Pertaining to Summer Flounder" to close the summer flounder commercial offshore fishery on April 19, 2015, to prevent a quota overage. Staff also recommended that the emergency amendments be advertised for an April 2015 public hearing.

Associate Member Neill moved to accept the staff recommendation. Associate Member Haynie seconded the motion. The motion carried, 6-0. Chair voted yes.

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23. REQUEST FOR PUBLIC HEARING: Proposed amendments to Chapter 4 VAC 20-950-10 et seq. "Pertaining to Black Sea Bass" to modify the dates for the recreational fishing season for black sea bass.

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

Staff recommended advertisement for an April public hearing of these amendments to the 2015 recreational season for black sea bass from May 19 through September 21 and October 18 through December 31 to May 15 through September 21 and October 22 through December 31. The possession limit will be 15 fish and the minimum size limit will be 12.5 inches, total length.

REQUEST FOR PUBLIC HEARING: Proposed amendment to Chapter 4VAC20-1270-10 et seq., "Pertaining to Atlantic Menhaden", to establish a reduction in the quota for the 2015 non-purse seine menhaden bait sector to account for the 2014 quota landings overage of this sector.

Mr. O'Reilly stated that this was a change in the regulation that the Commission needed to make because of an overage in the 2014 landings quota for the bait sector of the Atlantic Menhaden Fishery. He stated the reduction in the quota would be approximately 389,000 pounds. He stated that staff recommended a public hearing be advertised for the April 28, 2015 meeting.

Associate Member Neill moved to accept the staff recommendation for the advertisement of the public hearings. Associate Member Erskine seconded the motion. The motion carried, 6-0. Chair voted yes.

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Commission Meeting

**17357
March 24, 2015**

There being no further business, the meeting was adjourned at approximately 6:55 p.m.
The next regular Commission meeting will be Tuesday, April 28, 2015.

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John M. R. Bull, Commissioner

Katherine Leonard, Recording Secretary