

MINUTES

COMMISSION MEETING

June 19, 2018

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

Steven G. Bowman	Commissioner
Chad Ballard	
Christina Everett	
Wayne France	
Heather Lusk	
James E. Minor III	Associate Members
Ken Neill, III	
John Tankard III	
John Zydron Sr.	
Kelci Block	Assistant Attorney General
Jamie Hogge	Recording Secretary
Ellen Bolen	Deputy Commissioner
Dave Lego	Bs. Systems Specialist
Todd Sperling	Bs. Systems Manager
Linda Hancock	Dir., Human Resources
Robert O'Reilly	Chief, Fisheries Mgmt.
Pat Geer	Deputy Chief, Fisheries Mgmt.
Stephanie Iverson	Fisheries Mgmt. Manager, Sr.
Andrew Button	Head, Conservation and Replenishment
Jill Ramsey	Fisheries Mgmt. Specialist
Ryan Jiorle	Fisheries Mgmt. Specialist
Alex Aspinwall	Fisheries Mgmt. Specialist
Adam Kenyon	Fisheries Mgmt. Specialist
Nancy McElligott	Fisheries Mgmt. Specialist
Sydney Alhale	Fisheries Mgmt. Specialist
Sara Blachman	Fisheries Mgmt. Specialist
Anna-Mai Christmas	Fisheries Mgmt. Specialist

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Rick Lauderman
Warner Rhodes
Andy Dutton
Alexander Tucker
Brian Elliott

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

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

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.
Dir., Shellfish Aquaculture, Leasing
and Mapping

Daniel Faggert
Chris Myers

Surveyor, Engineering/Surveying
Surveyor, Engineering/Surveying

Virginia Institute of Marine Science (VIMS):

Lyle Varnell

Emily Hein

Scott Hardaway

Others present:

Russel Garrison
Gary Cosby
Sandy Jones
Deborah Suski
Dan Sehnal
Alan Pitts
Craig Palubinski
Lloyd Redlin
Derwin Booke
John Mulligan
Keith Havron
Kim Huskey
Allison Marah
Jeffrey West
and others.

Frank Money maker
John Cougill
Staurt Harris
Doreen Suski
Mike Oesterling
J. D. Willett
Bill Broaddus
Jim Lang
Susan Beukenkamp
Claire Newbert
Charles Penrod
Julie Minot
Michael Ware
Kevin West

Joyce Money maker
Cameron Cougill
Hank Hartz
Donna Suski
Margie Redlin
Curtis Dozier
Charles Springett
Rowan McConville
Dutch Beukenkamp
Jennifer Johnson
Bill Glover
Charles Marah
Chris Moore
Frank West Jr.

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Commissioner Bowman called the meeting to order at approximately 9:35 a.m.

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

Commissioner Bowman announced and introduced Ellen Bolen as the Deputy Commissioner.

Ben Stagg, Dir., Shellfish Aquaculture, Leasing and Mapping introduced Chris Myers as the new surveyor in the department.

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APPROVAL OF AGENDA: Commissioner Bowman asked if there were any changes from the Board members or staff. There were no changes.

Associate Member Zydron moved to approve the agenda as presented. Associate Member France seconded the motion. The motion carried, 9-0. Chair voted yes.

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MINUTES: Commissioner Bowman asked if there were any changes or corrections to be made to the May 22, 2018 Commission meeting minutes. There were no changes.

Associate Member Zydron moved to approve the minutes as presented. Associate Member Ballard seconded the motion. The motion carried, 9-0. Chair voted yes.

MINUTES: Commissioner Bowman explained that the June 7, 2018 CBBT Special Information Meeting was a tour of the facility by request of the CBBT Authority. The record reflects that it was not a quorum. The Commission or Associate members did not vote and no official business was discussed.

Commissioner Bowman, Associate Member Lusk and Associate Member Ballard was present during the special meeting. Commissioner Bowman suggested approval of the agenda by consent from only those members present at the meeting. There were no concerns with the minutes. The minutes were approved by consent.

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

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- 1. **PUBLIC COMMENT:** There was no public comment.

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- 2. **PERMITS** (Projects over \$500,000.00 with no objections and with staff recommendation for approval).

Tony Watkinson, Chief, Habitat Management reviewed the two (2) page 2 items, A & B for the Board Members. Mr. Watkinson’s comments are a part of the verbatim record.

There were no public comments.

Associate Member Tankard moved to approve the page two items as presented. Associate member Ballard seconded the motion. The motion carried 9-0. Chair voted yes.

- 2A. **VIRGINIA ELECTRIC AND POWER COMPANY, #18-0019**, requests a permit modification to install temporary wooden bridges across an additional three (3) tidal streams to facilitate repairs to the foundations of six (6) transmission line support structures (Lines 85 & 2016, structures 68-73) located approximately 500 feet upstream (northwest) of the Eltham Bridge crossing of the Eltham Marsh Thorofare and the Pamunkey River in New Kent County. Recommend approval with our standard instream work permit conditions.

- 2B. **VIRGINIA BEACH DEPARTMENT OF PUBLIC UTILITIES, #18-0222**, requests authorization remove an aging 60-inch diameter water line and to install, by the open-cut method, a 60-inch diameter ductile iron raw water transmission line, a minimum of five (5) feet beneath a 100-foot wide section of the Meherrin River, with associated concrete thrust blocks and riprap stabilization, within their existing easement in Brunswick County. Staff recommends approval contingent on the use of cofferdams for all instream work, and time-of-year restrictions from April 15 through July 31 and August 15 through September 30 of any year to protect the State-threatened Atlantic Pigtoes and Green Floaters. We further recommend the permittee perform a mussel survey and relocation in coordination with the Department of Game and Inland Fisheries prior to any instream work.

Fees: (#18-0222)	\$ 100.00
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3. CONSENT AGENDA ITEMS.

3A. DAN MURDOCK, #13-0804, requests after-the-fact authorization to retain a 180 linear foot riprap sill with a maximum ten-foot base width, a maximum height of six (6) feet above the creek bottom and associated backfill, and planting of a 5,400 square foot area landward of the sill with clean sand fill, adjacent to property situated along Popes Creek at 1534 Popes Creek Road in Westmoreland County. The applicant has agree to pay a \$1,000.00 civil charge and a royalty of \$270.00 in lieu of further enforcement action.

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

There were no public comments.

Associate Member France made a motion to move to approve the after the fact application as presented. Associate Member Ballard seconded the motions. The motion carried 9-0. Chair voted yes.

Triple permit fee:	\$ 75.00
Civil Charge:	\$ 1,000.00
Total Fees:	\$ 1,075.00

4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. . The Commission held a closed session to discuss legal matters.

Associate Member Ballard made a motion of certification to recess for legal advice from Kelci Block. Associate Member Neill seconded the motion. The motion carried, 9-0. Chair voted yes. Meeting was closed at 9:47 a.m.

Meeting reconvened at 9:54 a.m.

5. **JOHN COUGILL, #17-0356**, requests authorization to construct a 41-foot long by 19-foot wide (779 square feet) open-sided, private, riparian boathouse at a proposed new, private, riparian pier adjacent to his property on Sturgeon Creek at 191 Sturgeon Point Loop in Middlesex County. The project is protested by multiple nearby residents.

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

Mr. Woodward explained that the proposed boathouse appears to be reasonably sized to protect the vessel owned by Mr. Cougill. With the bow sprit and transom extension, the overall length of his boat is 36 feet long, with the roof length at 41 feet, staff believes this to be a reasonable size in keeping with past additional allowance for minor coverage of the finger pier. The open-sided design is in keeping with staff policy of attempting to minimize impacts on adjacent and nearby properties on the waterway. The boathouse is wholly within the Cougill's lawfully determined riparian area and staff does not believe the structure will adversely affect navigation in or around the community pier and ramp on the adjacent lot.

Mr. Woodward concluded, after evaluating the merits of the project and after considering all of the factors contained in §28.2-1205(A) of the Code of Virginia, staff finds the proposal to be a reasonable and permissible use of State-owned submerged lands and recommends approval of the 41-foot long by 19-foot wide, open-sided, boathouse proposed by the applicant.

Mr. Woodward answered several questions from the Associate Members concerning environmental issues, the restriction to the community pier, the impact on viewshed, clarification on the Commission's jurisdiction, the number of nearby boathouses in the area and the distance the proposed boathouse would be from the community pier.

Jerry Cosby, agent for Mr. Cougill was sworn in and spoke on behalf of Mr. Cougill. Mr. Cosby's comments are a part of the verbatim record.

Mr. Cosby explained the applicant's intentions to exercise his riparian rights.

There were four (4) people that spoke in opposition of the project. They were sworn in and their comments are a part of the verbatim record.

Those that spoke in opposition had concerns with the impact on view shed, the size of the boathouse and property value decrease.

The matter was before the Commission for discussion and action.

Associate Member Neill made a motion to move to approve staff recommendation. Associate Member Zydron seconded the motion. The motion carried, 8-0. Chair voted yes. Associate Member Minor was not present during final vote.

Fees:	\$ 25.00
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- 6. **DEBORAH J. SUSKI, #17-1275**, requests authorization to construct an 80-foot long near-shore quarry stone breakwater, with associated clean sand beach nourishment and vegetative plantings, at the mouth of Tabbs Creek in the Dungeon Thicket subdivision in Lancaster County. The project is protested by the adjacent property owners and several nearby residents

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

Mr. Woodward explained that the project site is at the northern point of land in a subdivision known as Dungeon Thicket, at the mouth of Tabbs Creek, approximately four (4) miles northwest of Windmill Point and 2.5 miles east of the Town of White Stone in Lancaster County. Tabbs Creek is tributary to Fleets Bay. The fetch to the southeast to east to northeast is over 20 miles. Data from the Virginia Institute of Marine Science (VIMS) indicates that the average erosion rate along the Fleets Bay shoreline is 2.9 feet/year over the period 1937 to 2009. However, at this particular location, there has been more than 500 feet of land loss. The sandy point has retreated an average of more than six (6) feet per year from 1857 to 1937, according to recent VIMS comments on the project. There are a series of low-profile groins along the east-facing shoreline to the south with a low, terminal groin/jetty located approximately 100 east of the proposed structure. There are a series of large, offshore sandbars to the east, on both sides of the existing dredged navigation channel.

Accordingly, after evaluating the merits of the project and after considering all of the factors contained in §28.2-1205(A) of the Code of Virginia, staff finds the proposal to be a reasonable and permissible use of State-owned submerged lands. Therefore, we recommend approval of the project as proposed, with a royalty in the amount of \$30.00 for the placement of beach nourishment material over 600 square feet of State-owned subaqueous land at the standard rate of \$0.05 per square foot.

Craig Palubinski, from Bay Shore Design, agent representing the project, was sworn and his comments are a part of the verbatim record. Mr. Palubinski explained the intentions of

the project was to construct a breakwater to protect the property from further erosion and plant upper beach zones which will provide stabilization and beach nourishment. Mr. Palubinski also stated that the proposed shoreline stabilization was the preferred method for the situation.

Debra Suski, the applicant, was sworn in and her comments are a part of the verbatim record. Ms. Suski explained that the property was purchased with intentions of allowing members of the community access to the beach.

There were two (2) people present that spoke in support of the proposed project. They were all sworn in and their comments are a part of the verbatim record. Those that spoke in support are in favor of restoring the beach for future enjoyment by the community and their families.

There were four (4) people present that spoke in opposition of the project. They were all sworn and their comments are a part of the verbatim record. Those that spoke in opposition had concerns of litter and pollution, increased boat traffic, the uncertainty of whether the beach will remain private or become public, the view of the structure and the probability of sand encroaching into the channel which may led to increased dredging of the channel.

Mr. Palubinski spoke in rebuttal that the applicants would like to exercise the rights to protect their property.

The matter was before the Commission for discussion and action.

Associate Member Minor made a motion to move to approve staff recommendation. Associate Member Zydron seconded the motion. The motion carried, 9-0. Chair voted yes.

Royalties (Nourishment: 600sf @ 05 sf):	\$ 30.00
Fees:	\$ 100.00
Total Fees:	\$ 130.00

7. **RICHARD J. MURRAY, IV, #18-0304**, requests authorization to anchor up to 20 8-foot by 4-foot oyster aquaculture floats within a 120-foot by 10-foot area on his oyster ground lease (Plat File #20832) in Occohannock Creek in Accomack County. The project is protested by nearby property owners.

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

Mr. Badger explained that the proposed project is located on the bayside of the Eastern Shore, approximately 5.1 miles northwest of the Town of Exmore in the Scarborough Neck area of Accomack County. The water depths in the proposed area vary from approximately minus two (-2) feet to minus three (-3) feet at mean low water. The bottom is mostly a sand and mud mix with submerged aquatic vegetation (SAV) inshore of the proposed floats. Occohannock Creek has mostly cage oyster aquaculture activity from the mouth of the creek east (approximately 3.5 miles) to Morleys Wharf. There is also a small amount of clam aquaculture in the area.

The applicant, Mr. Murray has one oyster ground lease for 4.15 acres. The proposed floats will be installed in the water column above the applicant's oyster ground lease (Plat File #20832) that was transferred and assigned to him in February 2018. The oyster ground was originally assigned to Mr. Michael Pranic in April 2015. That application was not protested.

The applicant proposes to anchor ten (10) floats in two lines, 25 feet south of his inshore oyster ground lease line. The proposed floats will be located channelward of any SAV as shown on the Virginia Institute of Marine Science's SAV maps in 2017.

The Virginia Marine Resources Commission has been generally supportive of commercial shellfish aquaculture proposals, especially when there are no apparent use conflicts, little likelihood of detrimental impacts to the environment and little opposition. This project appears to meet those criteria.

While staff understands the objections raised by the protestants, staff believes that the applicant has positioned the two float lines to minimize the potential impacts to navigation and SAV. In addition, staff believes that a surety bond, as has been required for other aquaculture proposals in the Commonwealth, would provide funds to allow the Commission to remove the structures in the event the applicant is unable or unwilling to do so.

Accordingly, after considering all of the factors in §28.2-1205 of the Code of Virginia and weighting all comments in the record, and the concerns raised by the protestants, staff recommends approval with the following special conditions:

1. A surety bond in the amount of \$300.00 to cover the cost of removal of all 20 floats, lines, augers in the event of failure;
2. An annual royalty for in the amount of \$6.00 based on the bold outline of the entire aquaculture structures (1,200 square feet over State owned submerged land) at a rate of \$0.005 per square foot;
3. The permit shall not be issued until proof of issuance of the surety bond;
4. The permit and authorization to retain the structures shall be valid for a period of five (5) years. After five (5) years, the Permittee may request the Commission re-evaluate the project and seek authorization to continue the activity for an additional period of time;
5. The public shall not be excluded from any areas not physically occupied by the authorized structures;
6. The Permittee shall properly maintain all structures and shall remove all structures within five (5) days upon their falling into a state of disrepair or upon cessation of their use as aquaculture structures;
7. The structures must be marked and located in accordance with §28.2-607 of the Code of Virginia and VMRC Regulation 4VAC20-290-30;
8. Should unforeseen conflicts arise, the Commission may elect to hold an additional public hearing, at which time they may elect to revoke the permit and direct removal of any or all of the authorized floats;
9. All commercial aquaculture activities conducted in association with the structures authorized herein shall be conducted in compliance with all relevant VMRC and Department of Health regulations;
10. The Permittee shall be required to remove or relocate any of the structures, which are determined to be in the way of any approved shoreline projects requested by the adjacent upland property owner within their riparian area.

Richard Murray IV, applicant, was sworn and his comments are a part of the verbatim record.

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Mr. Murray stated that he was new to the industry and is trying to follow the proper guidelines. The intentions for the cage floats are for seed oysters until they are large enough to be placed in bottom cages.

Mr. Murray answered questions from Associated Members regarding the proposed placement of the cages. Mr. Murray was pleased with the proposed location of the cages but he would consider another location if needed.

No one was present to speak in opposition of the project.

The matter was before the Commission for discussion and action.

Associate Member Zydron made a motion to accept the staff recommendation. Associate Member Minor seconded the motion. The motion carried, 9-0. Chair voted yes.

Royalties (Annual Aquaculture: 1,200sf @ \$. 005 sf):	\$ 6.00
Fees:	\$ 25.00
Total Fees:	\$ 31.00

ITEMS 8 & 9 were combined however, each item was voted on separately.

8. **DAVID JOHNSON, Oyster Planting Ground Application #2014-261**, requests authorization to lease approximately 30 acres within Hampton Roads in the City of Hampton. The application is protested by the City of Hampton. The area is also within waters classified as restricted for shellfish harvest.
9. **DAVID JOHNSON, Oyster Planting Ground Application #2014-262**, requests authorization to lease approximately 200 acres within Hampton River in the City of Hampton. The- application is protested by the City of Hampton and the Downtown Hampton Development Partnership. The area is also within waters classified as restricted for shellfish harvest.

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

Mr. Stagg explained that the applicant indicated on the application “use plan questionnaire” that the bottom would be used for traditional shelling of the bottom or to cultivate existing shellfish resources. They also indicated the area would be used for clam cultivation. The applicant does have other leased ground and could relay shellfish to other non-restricted classification waters.

Portions of the application have existing coverage of submerged aquatic vegetation. It is the policy of the agency to avoid the granting of shellfish leases where such vegetation has existed within the most recent five year period.

Mr. Stagg stated that staff believes that, in light of the concerns of the City of Hampton and the restricted classification of the waters for shellfish harvest in this area, leasing of this area is not in the best interests of the Commonwealth pursuant to §28.2-607 of the Code of Virginia and recommends denial of the applications. Should the Commission deem it is in the best interest of the Commonwealth to lease the area, staff will proceed with the surveying of the application. If no protest is received pursuant to the required waiting period of thirty days after the survey plat is approved, as required by the Code of Virginia, and upon payment by the applicant of all required fees, the lease could be assigned administratively.

Commissioner Bowman read a letter from Claire Newbert, who is in opposition of the application. Commissioner Bowman’s comments are a part of the verbatim record.

David Johnson, applicant, was not present.

Public hearing was closed and the matter was before the Commission for discussion and action.

Associate Member France made a motion to accept the staff recommendation to deny the permit request. Associate Member Minor seconded the motion. The motion carried, 9-0. Both items were voted on separately with the same result.

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10. PUBLIC COMMENT:

Andrew Button, Head, Conservation and Replenishment updated the Commission on the budget amendment for oyster replenishment and restoration funds. Mr. Button’s comments are a part of a verbatim record.

Mr. Button informed the Commission that a budget amendment was passed by the General Assembly, increasing oyster replenishment and restoration funds by \$750,000 in fiscal year 2018/2019 and \$1,000,000 in fiscal year 2019/2020. These additional funds will be split evenly between replenishment and restoration work.

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11. LICENSE STATUS REVIEW: (Item #11 was heard before Item #10)

(11-1) – Jeffrey West (MRC ID# 008996:) – was present and sworn in. Mr. West’s comments are a part of the verbatim record.

Officer Brian Elliott, Marine Police Officer, was sworn in and he gave the briefing of the information provided in the staff’s evaluation. His comments are a part of the verbatim record.

December 5, 2017, Possession of Unculled Oyster (12 Quarts): 4 VAC 20-260-40

Disposition:

January 16, 2018, Newport News General District Court

Fine: \$100.00; Court Cost: \$0.00

Michael Ware, attorney, represented Mr. Jeffrey West. Mr. Ware’s comments are a part of the verbatim record.

Mr. Ware called Kevin Jenkins and Frank West to the podium separately to testify on behalf of his client, Jeffrey West. Both Mr. Jenkins and Mr. Frank West agreed to testify knowing the possibility of self-incrimination. Mr. Ware also called his client, Jeffrey West to the podium to testify. Their comments are a part of the verbatim record.

MATRIX GUIDELINE SUGGESTION: 1 YEAR REVOCATION OF ALL LICENSES (§28.2-232 of the Code of Virginia)

Pat Geer, Deputy Chief, Fisheries Mgmt., explained to the Commission the matrix guidelines, with PowerPoint slides. Mr. Geer’s comments are a part of the verbatim record.

Mr. Jeffrey S. West, a commercial fisherman registration licensee, was convicted on January 16, 2018 for one count of possessing uncultured oysters (12 quarts) (4VAC 20-260-40).

The Commission’s matrix guidelines for sanctions specify that one conviction of possessing at least 50% over the tolerance of undersized shellfish, while on probation,

within a two-year period, should result in at least a one year revocation of all Commission-issued licenses. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to revoke all Mr. West's Commission-issued licenses for a period of one year from the date of this Commission meeting, June 19, 2018 through June 18, 2019. The Code of Virginia also allows that the Commission prohibit the issuance, reissuance, and renewal of any of Mr. West's licenses during this revocation period.

Associate Member France made a recommendation and a motion for a 3 year probation. Associate Member Minor seconded the motion. The motion carried, 9-0. Chair voted yes.

(11-2) – Kevin Jenkins (MRC ID# 4252:) – was present and sworn in. Mr. Jenkins' comments are a part of the verbatim record.

Officer Brian Elliott, Marine Police Officer, was sworn in and he gave the briefing of the information provided in the staff's evaluation. His comments are a part of the verbatim record.

December 5, 2017, Possession of Unculled Oyster (12 Quarts): 4 VAC 20-260-40

Disposition:

January 16, 2018, Newport News General District Court

Fine: \$100.00; Court Cost: \$91.00

MATRIX GUIDELINE SUGGESTION: 1 YEAR PROBATION (§28.2-232 of the Code of Virginia)

Pat Geer, Deputy Chief, Fisheries Mgmt., explained to the Commission the matrix guidelines, with PowerPoint slides. Mr. Geer's comments are a part of the verbatim record.

Mr. Kevin Jenkins, a commercial fisherman registration licensee, was convicted on January 16, 2018 for one count of possessing uncultured oysters (12 quarts) (4VAC 20-260-40).

The Commission's matrix guidelines for sanctions specify that one conviction of possessing at least 50% over the tolerance of undersized shellfish, within a two-year period, should result in at least a one year probation. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to place Mr. Jenkins on probation for a period of one year from the date of this Commission meeting, June 19, 2018 through June 18, 2019. Any failure on Mr. Jenkins' 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. Jenkins appearing before the Commission for a hearing on a license revocation.

Associate Member France made a recommendation and a motion for a 3 year probation. Associate Member Minor seconded the motion. The motion carried, 9-0. Chair voted yes.

(11-3) – Frank West (MRC ID# 5513): – was present and sworn in. Mr. West’s comments are a part of the verbatim record.

Officer Brian Elliott, Marine Police Officer, was sworn in and he gave the briefing of the information provided in the staff’s evaluation. His comments are a part of the verbatim record.

December 5, 2017, Possession of Unculled Oyster (12 Quarts): 4 VAC 20-260-40

Disposition:

January 16, 2018, Newport News General District Court

Fine: \$150.00; Court Cost: \$91.00

MATRIX GUIDELINE SUGGESTION: 1 YEAR PROBATION (§28.2-232 of the Code of Virginia)

Pat Geer, Deputy Chief, Fisheries Mgmt., explained to the Commission the matrix guidelines, with PowerPoint slides. Mr. Geer’s comments are a part of the verbatim record.

Mr. Frank J. West, was convicted on January 16, 2018 for one count of possessing unculled oysters (12 quarts) (4VAC 20-260-40).

The Commission’s guidelines for sanctions specify that one conviction of possessing unculled oysters should result in one year probation. In accordance with §28.2-232 of the Code of Virginia, the matrix guidelines suggest to the Commission to place Mr. West on probation for a period of one year from the date of this Commission meeting, June 19, 2018 through June 18, 2019. Any failure on Mr. West’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. West appearing before the Commission for a hearing on a license revocation.

Associate Member Minor made a motion to approve the staff guideline recommendation for 1 year probation. Associate Member Neill seconded the motion. The motion carried, 9-0. Chair voted yes.

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- 12. PUBLIC HEARING:** Proposal to amend Chapters 4 VAC 20-240-10 et seq., “Pertaining to Tangier Island Crab Scrape Sanctuary;” 4 VAC 20-270-10 et seq., and “Pertaining to Crabbing;” and Chapter 4 VAC 20-1140-10 et seq., “Prohibition of Crab Dredging in Virginia Waters.”

Rob O’Reilly, Chief, Fisheries Mgmt., presented the information provided in the staff’s evaluation, with PowerPoint slides for the Board members. Mr. O’ Reilly’s comments are a part of the verbatim record.

Staff recommends the Commission adopt the amendments to the following regulations:

- 1) Chapter 4 VAC 20-1140-10 et seq., “Prohibition of Crab Dredging in Virginia Waters,” Staff recommends the Commission establish a prohibition of a crab dredge season during the December 1, 2018 through March 31, 2019 period.
- 2) Chapter 4 VAC 20-270-10 et seq.,”Pertaining to Crabbing,” For all relevant sections of this regulation, staff recommends the Commission adopt a July 5, 2018 through July 4, 2019 management framework period to replace the current July 5, 2017 through July 4, 2018 framework management period.
- 3) 4 VAC 20-240-10 et seq., "Pertaining to Tangier Island Crab Scrape Sanctuary," Staff recommends the Commission establish a seasonal by-catch allowance of female hard crabs, not to exceed 3 bushels per day, for crab scrape licensees during the months of August through October.

Associate Member Minor made a motion to move to approve staff recommendation. Associate Member Ballard seconded the motion. The motion carried, 9-0. Chair voted yes.

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- 13. PUBLIC HEARING:** Proposal to amend Chapter 4 VAC 20-450-10 et seq., “Pertaining to the Taking of Bluefish,” to establish the 2018 Virginia commercial bluefish quota.

Jill Ramsey, Fisheries Mgmt. Specialist, presented the information provided in the staff’s evaluation, with PowerPoint slides. Ms. Ramsey’s comments are a part of the verbatim record.

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**18113
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Staff recommends the Commission approve amendments to Chapter 4 VAC 20-450-10 et seq., "Pertaining to the Taking of Bluefish," to establish the 2018 commercial bluefish quota as 860,518 pounds.

Associate Member Minor made a motion to move to approve staff recommendation. Associate Member Ballard seconded the motion. The motion carried, 9-0. Chair voted yes.

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There being no further business, the meeting was adjourned at approximately 2:42 p.m. The next Commission meeting will be Tuesday, July 24, 2018.

Steven G. Bowman, Commissioner

Jamie Hogge, Recording Secretary