

MINUTES

COMMISSION MEETING

May 23, 2023

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 380 Fenwick Road, Bldg. 96, Fort Monroe, Virginia with the following present:

Jamie L. Green	Commissioner
Lynn Kellum	
William Bransom	
Wayne France	
John Tankard III	Associate Members
James Minor	
Heather Lusk	
Jeremy Headley	
A.J. Erskine	
Katherine Kulbok	Assistant Attorney General
Jamie Hogge	Recording Secretary
Pat Geer	Chief, Fisheries Mgmt.
Shanna Madsen	Deputy Chief, Fisheries Mgmt.
Jill Ramsey	Fisheries Mgmt. Specialist
Jennifer Farmer	Fisheries Mgmt. Specialist
Somers Smott	Fisheries Mgmt. Specialist
Alexa Galvan	Fisheries Mgmt. Specialist
Joshua McGilly	Fisheries Mgmt. Specialist
Brooke Lowman	Fisheries Mgmt. Specialist
Lewis Gillingham	Director, SWFT
Alicia Nelson	Coordinator, RFAB/CFAB
Matthew Rogers	Chief, Law Enforcement
Herbert Bell	Deputy Chief, Law Enforcement
David Townsend	Marine Police Officer
Brian Elliott	Marine Police Officer
Myreon Pierce	Marine Police Officer
Randy Owen	Chief, Habitat Management
Justin Worrell	Deputy Chief, Habitat Management

Commission Meeting

Jeff Madden	Environmental Engineer, Sr.
Jay Woodward	Environmental Engineer, Sr.
Lauren Chartrand	Environmental Engineer, Sr.
Mark Eversole	Environmental Engineer, Sr.
Mike Johnson	Environmental Engineer, Sr.
Claire Gorman	Environmental Engineer, Sr.

Adam Kenyon	Chief, Shellfish Management
Andrew Button	Deputy Chief, Shellfish Management
Daniel Faggert	Surveyor, Engineering/Surveying

Virginia Institute of Marine Science (VIMS):

Lyle Varnell

Others present:

Willie Shifflet	Steve Mc Gee	Elizabeth Stewart
David O'Brien	Dustin Anderson	Bryan Peeples
Leslie Jordanger	Dan Jordanger	Angie Anderson
Kate Kulbek	Bob Simon	Kenneth Brown
Daniel Carr	Steve Swarr	Chris Moore
and others.		

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APPROVAL OF AGENDA. – Commissioner Jamie Green asked if there were any changes from the Board members or staff.

Associate Member France moved to approve the agenda as presented. Associate Member Minor seconded the motion. The motion carried, 8-0.

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MINUTES: Commissioner Green asked if there were any changes or corrections to be made to the April 25, 2023, Commission Meeting minutes.

Associate Member Erskine moved to approve the minutes as presented. Associate Member Headley seconded the motion. The motion carried, 8-0.

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

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

Randy Owen, Chief, Habitat Management, reviewed the Page 2 items 2A and 2B for the Associate Members. Mr. Owen’s comments are a part of the verbatim record.

- 2A. **TANGADA RAO, #22-2842**, requests authorization to construct 413 linear feet of riprap sill with 290 cubic yards of clean sand fill and plantings to create a living shoreline at properties (11637 and 11643 Riverboat Drive) situated along the James River in Chesterfield County. This project requires a tidal wetlands permit.
- 2B. **CHESTERFIELD COUNTY, #22-2623**, requests authorization to construct a 1,085-foot long by 47-foot wide bridge over the James River Oxbow near 251 Henricus Park Road in Chesterfield County. Temporary barges and work trestles will be installed for construction access. Staff recommends approval with the standard time-of-year restriction for any instream work between February 15 and June 30 of any year. The use of “ramp-up” procedures, cushion blocks, and bubble curtains will be required during the installation of any hollow steel pilings.

No one spoke in support or opposition of the projects.

The matter was before the Commission for discussion and action.

Associate Member France moved to approve the Page 2 items 2A and 2B as presented. Associate Member Minor seconded the motion. The motion carried 8-0.

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- 3. **CONSENT AGENDA ITEMS.**

Commission Meeting

- 3A. BRUCE MARTIN, #21-1216**, requests after-the-fact authorization to retain 206 linear feet of riprap revetment installed channelward of the existing bulkhead serving 1605 Arnold Circle, situated along Linkhorn Bay in Virginia Beach. Staff recommends approval as the applicant has agreed to pay a triple permit fee of \$900.00, and the contractor has agreed to pay a civil charge of \$1,000.00.

Randy Owen, Chief, Habitat Management, reviewed the Page 2 items 2A and 2B for the Associate Members. Mr. Owen's comments are a part of the verbatim record.

No one spoke in support or opposition of the projects.

The matter was before the Commission for discussion and action.

Associate Member Minor moved to approve 3A as presented. Associate Member Erskine seconded the motion. The motion carried 8-0.

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

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- 5. DISCUSSION**, Commission review of application ADV-23-02 by Mathews County in the amount of \$7700.00 for the removal of a derelict vessel.

Adam Kenyon, Chief, Shellfish Management, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Kenyon's comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Minor made a motion to approve staff recommendation. Associate Member Headley seconded the motion. The motion carried, 8-0.

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6. LICENSE STATUS REVIEW.

Adam Kenyon, Chief, Shellfish Management, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Mr. Kenyon's comments are a part of the verbatim record.

Jeremy Parker (5426): Not present

08/16/2022 Theft of oysters 11 bushels: §28.2-527

Disposition:

October 14, 2022 Newport News General District Court

§28.2-528 of the Code of Virginia specifies that any person convicted of theft of oysters shall have their licenses and fishing privileges within the Commonwealth's tidal waters to take or catch fish, shellfish, or marine organisms revoked for a minimum of six months or a maximum of five years after such conviction in discretion of the Commission.

Mr. Jeremy Parker was convicted on October 14, 2022, for one count of theft of oysters (11 bushels) (§28.2-527 of the Code of Virginia).

The matter was before the Commission for discussion and action.

Associate Member France made a motion to revoke all of Mr. Parker's licenses and privileges for a period of five years, beginning on the date of conviction October 14, 2022 through October 13, 2027. Associate Member Minor seconded the motion. The motion carried, 8-0.

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Francesco Caffari (008650): not present

08/16/2022 Theft of oysters: §28.2-527

Disposition:

October 14, 2022 Newport News General District Court

§28.2-528 of the Code of Virginia specifies that any person convicted of theft of oysters shall have their licenses and fishing privileges within the Commonwealth's tidal waters to take or catch fish, shellfish, or marine organisms revoked for a minimum of six months or a maximum of five years after such conviction in discretion of the Commission.

Mr. Francesco Caffari was convicted on October 14, 2022, for one count of theft of oysters (§28.2-527 of the Code of Virginia).

The matter was before the Commission for discussion and action.

Associate Member Bransom made a motion to revoke all of Mr. Caffari's licenses and privileges for a period of five years, beginning on the date of conviction October 14, 2022 through October 13, 2027. Associate Member Tankard seconded the motion. The motion carried, 8-0.

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Kenny Jenkins (3307): Present

Mr. Jenkins stated that this occurred on private oyster ground. He couldn't see the poles that marked the private oyster ground. His comments are a part of the verbatim record.

Brian Elliott, Marine Police Officer, was sworn in. His comments are a part of the verbatim record.

04/13/2022 Theft of oysters 6 bushels: §28.2-527

04/13/2022 Oyster out of season: §28.2-506

Disposition:

June 28, 2022 Newport News General District Court

§28.2-528 of the Code of Virginia specifies that any person convicted of theft of oysters shall have their licenses and fishing privileges within the Commonwealth's tidal waters to take or catch fish, shellfish, or marine organisms revoked for a minimum of six months or a maximum of five years after such conviction in discretion of the Commission.

Mr. Kenny Jenkins was convicted on June 28, 2022, for one count of theft of oysters (§28.2-527 of the Code of Virginia) and one count of oystering out of season (§28.2-506 of the Code of Virginia).

Mr. Jenkins first appeared before the Commission for three oyster convictions at the July 2014 meeting. The Commission decided to revoke all of Mr. Jenkins' licenses for a period of one year from his conviction date of 3/27/2014 [the latest date for the one conviction qualifying under § 28.2-528] ending on 3/26/2015.

The matter was before the Commission for discussion and action.

Associate Member France made a motion to revoke all of Mr. Jenkins' licenses and privileges for a period of two years followed by 3 years' probation. Motion failed.

Associate Member Bransom made a motion to revoke all of Mr. Jenkins' licenses and privileges for a period of three years, beginning on the date of conviction June 28, 2022 through June 27, 2025 and then place Mr. Jenkins on probation for a period of two years from June 28, 2025 through June 27, 2027. Associate Member France seconded the motion. The motion carried, 8-0.

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Michael Holt (3073): Not present

David Townsend, Marine Police Officer, was sworn in. His comments are a part of the verbatim record.

02/18/2022 Theft of oysters: §28.2-527

02/18/2022 Having a scape in an unauthorized area: §28.2-523

Disposition:

October 17, 2022 Middlesex General District Court

§28.2-528 of the Code of Virginia specifies that any person convicted of theft of oysters shall have their licenses and fishing privileges within the Commonwealth's tidal waters to take or catch fish, shellfish, or marine organisms revoked for a minimum of six months or a maximum of five years after such conviction in discretion of the Commission.

Mr. Michael Holt was convicted on October 17, 2022, for one count of theft of oysters (§28.2-527 of the Code of Virginia) and one count of having a scrape in an unauthorized area (§28.2-523 of the Code of Virginia).

The matter was before the Commission for discussion and action.

Associate Member Tankard made a motion to revoke all of Mr. Holt's licenses and privileges for a period of five years, beginning on the date of conviction October 17, 2022 through October 16, 2027. Associate Member Headley seconded the motion. The motion carried, 8-0.

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Daniel Carr (009157):Present

Mr. Carr stated that the wind was blowing a gale and he was new as a boat captain. His comments are a part of the verbatim record.

David Townsend, Marine Police Officer, was sworn in. His comments are a part of the verbatim record.

02/18/2022 Theft of oysters: §28.2-527

02/18/2022 Having a scape in an unauthorized area: §28.2-523

Disposition:

December 5, 2022 Middlesex General District Court

§28.2-528 of the Code of Virginia specifies that any person convicted of theft of oysters shall have their licenses and fishing privileges within the Commonwealth's tidal waters to take or catch fish, shellfish, or marine organisms revoked for a minimum of six months or a maximum of five years after such conviction in discretion of the Commission.

Mr. Daniel Carr was convicted on December 5, 2022, for one count of theft of oysters (§28.2-527 of the Code of Virginia) and one count of having a scrape in an unauthorized area (§28.2-523 of the Code of Virginia).

The matter was before the Commission for discussion and action.

Associate Member France made a motion to revoke all of Mr. Carr's licenses and privileges for a period of three years, beginning on the date of conviction December 5, 2022 through December 4, 2025 and then place Mr. Carr on probation for a period of two years from December 5, 2025 through December 4, 2027. Associate Member Tankard seconded.

Associate Member France made an amended substitute motion to revoke all of Mr. Carr's licenses and privileges for a period of two years, beginning on the date of conviction December 5, 2022 through December 4, 2024 and then place Mr. Carr on probation for a period of two years from December 5, 2024 through December 4, 2026. Associate Member Bransom seconded the motion. The motion carried, 8-0.

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Thomas Belvin (4869): Present

Mr. Belvin stated that the weather was rough and the captain was not experienced. His comments were a part of the verbatim record.

David Townsend, Marine Police Officer, was sworn in. His comments are a part of the verbatim record.

02/18/2022 Theft of oysters: §28.2-527

Disposition:

December 5, 2022 Middlesex General District Court

§28.2-528 of the Code of Virginia specifies that any person convicted of theft of oysters shall have their licenses and fishing privileges within the Commonwealth's tidal waters to take or catch fish, shellfish, or marine organisms revoked for a minimum of six months or a maximum of five years after such conviction in discretion of the Commission.

Mr. Thomas Belvin was convicted on December 5, 2022, for one count of theft of oysters (§28.2-527 of the Code of Virginia).

The matter was before the Commission for discussion and action.

Associate Member France made a substitute motion to revoke all of Mr. Belvin's licenses and privileges for a period of six months, beginning on the date of conviction December 5, 2022 through June 4, 2023 and then place Mr. Belvin on probation for a period of two years from June 5, 2023 through June 4, 2025. Associate Member Headley seconded the motion. The motion carried, 8-0.

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Cameron Philpott (010272): Not present

David Townsend, Marine Police Officer, was sworn in. His comments are a part of the verbatim record.

02/18/2022 Theft of oysters: **§28.2-527**

Disposition:

December 5, 2022 Middlesex General District Court

§28.2-528 of the Code of Virginia specifies that any person convicted of theft of oysters shall have their licenses and fishing privileges within the Commonwealth's tidal waters to take or catch fish, shellfish, or marine organisms revoked for a minimum of six months or a maximum of five years after such conviction in discretion of the Commission.

Mr. Cameron Philpott was convicted on May 2, 2022, for one count of theft of oysters (§28.2-527 of the Code of Virginia).

The matter was before the Commission for discussion and action.

Associate Member Tankard made a motion to revoke all of Mr. Philpott's licenses and privileges for a period of five years, beginning on the date of conviction May 2, 2022 through May 1, 2027. Associate Member Bransom seconded the motion. The motion carried, 8-0.

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Willie Shiflette (3538): Present

Mr. Shiflette was sworn in and spoke on his behalf. His comments are a part of the verbatim record.

Patrick West, Marine Police Officer, was sworn in. His comments are a part of the verbatim record, was sworn in. His comments are a part of the verbatim record.

- 02/25/2022 Theft of oysters: §28.2-527
- 02/24/2022 Theft of oysters: §28.2-527
- 02/22/2022 Theft of oysters: §28.2-527
- 02/22/2022 Quotas and harvest limits: 4 VAC 20-720-80

Disposition:

December 5, 2022 Middlesex General District Court

§28.2-528 of the Code of Virginia specifies that any person convicted of theft of oysters shall have their licenses and fishing privileges within the Commonwealth's tidal waters to take or catch fish, shellfish, or marine organisms revoked for a minimum of six months or a maximum of five years after such conviction in discretion of the Commission.

Mr. Willie Shiflette was convicted on December 5, 2022, for three counts of theft of oysters (§28.2-527 of the Code of Virginia) and one count of quotas and harvest limits (4 VAC 20-720-80).

The matter was before the Commission for discussion and action.

Associate Member Tankard made a motion to revoke all of Mr. Shiflette's licenses and privileges for a period of five years, beginning on the date of conviction December 5, 2022 through December 4, 2027. Associate Member France seconded the motion. The motion carried, 8-0.

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Robert Jenkins: Not present

Patrick West, Marine Police Officer, was sworn in. His comments are a part of the verbatim record.

- 02/25/2022 Theft of oysters: **§28.2-527**
- 02/24/2022 Theft of oysters: **§28.2-527**
- 02/24/2022 Fail to pay oyster resource user fee: **§28.2-541**
- 02/22/2022 Fishing license required fishing waters of the Commonwealth without a license: **§28.2-225**
- 02/22/2022 Fail to register as a commercial waterman in the commonwealth of VA: **§28.2-241**

Disposition:

December 5, 2022 Middlesex General District Court

§28.2-528 of the Code of Virginia specifies that any person convicted of theft of oysters shall have their licenses and fishing privileges within the Commonwealth's tidal waters to take or catch fish, shellfish, or marine organisms revoked for a minimum of six months or a maximum of five years after such conviction in discretion of the Commission.

Mr. Robert Jenkins was convicted on December 5, 2022, for two counts of theft of oysters (§28.2-527 of the Code of Virginia), one count of failing to pay the oyster resource user fee (§28.2-541 of the Code of Virginia), one count of fishing the waters of the Commonwealth of Virginia without a required license (§28.2-225 of the Code of Virginia), and, failing to register as a commercial waterman in the Commonwealth of Virginia (§28.2-241 of the Code of Virginia).

The matter was before the Commission for discussion and action.

Associate Member Headley made a motion to revoke all of Mr. Jenkins' licenses and privileges for a period of five years, beginning on the date of conviction December 5, 2022 through December 4, 2027. Associate Member Minor seconded the motion. The motion carried, 8-0.

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7. **DUSTIN ANDERSON, #22-2638**, requests authorization to construct an open-sided boathouse and gazebo on a statutorily authorized private pier along the East River at 363 The Long Lane in Mathews County. The project is protested by an adjacent property owner.

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

Bryan Peeples, attorney for the applicant, was sworn in and spoke on behalf of the proposed project. His comments are a part of the verbatim record.

No one spoke in support of the project.

There were four (4) people that spoke in opposition to the proposed project. Their comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Minor made a motion to approve staff recommendation. Associate Member Bransom seconded the motion. The motion carried, 5-3. Associate Members France, Tankard and Lusk voted no.

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8. PUBLIC COMMENTS.

Kenneth Brown (MRC ID #009682): Request that the Commission reinstate his eligibility for an Oyster User Fee. His comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member France made a motion for reinstatement of the Oyster User Fee All Gear with back payment of the previous year's Oyster User Fee All Gear licenses. Associate Member Minor seconded the motion. The motion carried, 8-0.

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9. DISCUSSION, Presentation of 2022-2023 Blue Crab Winter Dredge Survey results and information pertaining to Virginia's blue crab fisheries.

Alexa Galvan, Fisheries Mgmt. Specialist, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. Ms. Galvan's comments are a part of the verbatim record.

Ms. Galvan explained that the Bay-wide Winter Dredge Survey is the primary survey used to assess the Chesapeake Bay's blue crab population. The 2023 total abundance estimate for blue crabs in Chesapeake Bay is 323 million crabs, an increase of 42% from 2022. Juvenile crabs increased 15% from 2022 but remain in low abundance. The adult female spawning stock (which is the primary source for management decisions) increased to 152 million crabs (56% higher than in 2021). Preliminary Bay-wide (excluding seaside areas) commercial harvest for 2022 was 42 million pounds, an increase of 3% from 2021's Bay-wide harvest. Virginia's 2022 harvest, including the seaside areas, is estimated at 16 million pounds, the lowest harvest reported since on the record.

The matter was before the Commission for discussion and action.

Associate Member Erskine made a motion to use this information as guidance for any regulatory changes to Virginia's blue crab fishery that may be considered by the Commission for its June public hearing. Associate Member Minor seconded the motion. The motion carried, 8-0.

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Commission Meeting

**19109
May 23, 2023**

There being no further business, the meeting was adjourned at approximately 12:15 p.m.
The next Commission meeting will be meeting on Tuesday, June 27, 2023.

Jamie L. Green, Commissioner

Jamie Hogge, Recording Secretary