

MINUTES OF THE PUBLIC HEARING AND MEETING OF THE
POTOMAC RIVER FISHERIES COMMISSION
COLONIAL BEACH, VIRGINIA
JUNE 6, 1980

408

PRESENT: Commissioners - Chairman James E. Douglas, Jr., William P. Hunt, Milton T. Hickman, John T. Parran, Robert J. Rubelmann, Richard E. Lankford

Officers - Robert M. Norris, Jr., Executive Secretary; Kirby A. Carpenter, Assistant Executive Secretary; J. Owen Wise, Legal Officer

Visitors - Dexter S. Haven, John Merriner, VIMS; Elgin A. Dunnington, CBL; George Krantz, HPEL; Pam Lunsford, Charles Frisbee, Mark Bundy and Bill Sieling, DNR, Tidewater Administration; Donald Z.O'Bier, Lawrence Vickers, Oren T. Mears and Robert J. Markland, VMRC; Paul C. Wentzell, Henry Batchelor, NRP; Steve Mayer, Southern Maryland Tri-County Council; Mr. Dick Arnold, St. Mary's County Commissioner; James O. Saunders, Clarence Poe, William Jubis, James W. Dutton, Harry S. Bullis, Robert T. Brown, Newbill Conley, Donald Clark, James Mack, Kermit Rose, Thomas Hall, Paul Smith, Robert N. Reamy, Jr. and Louis Harley plus 17 others by count who did not sign register.

Press - Richard Polk, The Enterprise; Dick Myers, Maryland Independent; Isabel Gough, Richmond News Leader; Rusty Dennen, The Free Lance-Star

The meeting was called to order by Chairman James E. Douglas, Jr. at 9:30 a.m. He asked for consideration of the Minutes of the March 7, 1980 meeting, noting that mimeographed copies had been previously circulated to each Commissioner. The following motion was made and seconded:

"That the Minutes of the March 7, 1980 meeting be approved as written."
The motion was approved.

SHAD FISHERY

OPEN PUBLIC HEARING

At 9:35 a.m. Chairman Douglas opened the Public Hearing on the proposed regulation which had been advertised banning the taking of American Shad and which was designed to conform to Maryland who has adopted an emergency temporary ban on shad fishing. Copies of the proposed regulation were made available to the group and Mr. Douglas asked that a copy be attached to the Minutes of this meeting.

Mr. James W. Dutton stated he was opposed to the regulation as advertised suggesting a better alternative in his opinion, namely, to ban all gill nets during April, May and June upriver from Sycamore Point so that any shad or rock which had reached the spawning area would not be caught. He further suggested that poor water quality is one of the main causes for the decline of shad. He also believes closing the entire river is not the answer since shad are very weak and are usually dead when caught in gill nets.

Robert Brown spoke against the ban as advertised and recommended banning the use of #69 twine in 5" to 5½" gill nets since this is the main "shad net".

Mr. Charlie Frisbie reviewed Maryland's position. Maryland closed the fishery for taking shad in April and May 1980, but closure expired June 4, 1980. The Department will reassess the situation and announce plans for next Spring. As an experiment, the State has temporarily ceased the use of chlorine at sewage treatment plants on three tributaries of the Bay during the shad run. They also are trying to open Little Falls on the Potomac to the spring shad run and are requesting maintenance of a minimum flow of 5,000 cfs from April 1 thru July 1 at the Conowingo Dam.

Dr. John Merriner said that restrictions on twine size and area may be effective but the fishery is somewhat "self-regulating" as evidenced by a shift in market preference.

Elgin Dunnington questioned a fishing ban in the same area of suspected bad water quality problems. He agreed other causes beside fishing are contribution to the shad decline, but fishing pressure is the only activity directly controllable by this Commission.

The following motion was made and seconded: "That the proposed regulation on shad fishing be held in abeyance until 1/15/81." The motion was approved.

The Chairman asked that the Commission be kept advised of Maryland's actions and that we study the alternate proposals offered today. The Public Hearing was closed at 10:15 a.m.

CLOSE PUBLIC HEARING

SEED AREA REQUESTED BY ST. MARY'S COUNTY

Mr. Wise said the ad hoc committee had investigated the proposal and determined that as presented it could not be accommodated as it might be construed as a form of leasing, which is prohibited by the Compact.

Mr. Douglas said he was told that Maryland has marked off an area in Calvert Bay for use as a "seed area" and he believed this was the preference of Maryland and the local oyster tongs committee, but that he and Mr. Rubelmann will further check with Maryland about this.

Mr. Arnold thanked the Commission for giving due consideration to their proposal and although this particular proposal is tangled in legalities, he believes the "idea" is valid and he will work with the Commission toward the goal of replenishment of the oyster resources in both the tributaries and the Potomac.

Mr. Lankford offered the following motion:

"That the Commission accept with thanks the ad hoc committee's negative report that seed areas on Jones Shore or Cornfield Harbor be turned over to Maryland for use of Maryland tributaries." The motion was seconded and approved.

Mr. Parran said he would like to add that the PRFC continue to pursue all other avenues that would help produce seed oysters for the Potomac, Maryland or Virginia tributaries.

ECONOMIC STUDY

Mr. Steve Mayer presented a proposed Economic Assessment study of the Potomac River Fishery to run in conjunction with a two (2) year Maryland study of the economic impact of the seafood industry in Maryland saying that annual PRFC funding of \$21,600 would be required each year.

Mr. Mark Bundy stated the Maryland study did not include any money for the "field" survey work in Virginia and therefore he and Mr. Mayer were requesting the additional funding.

Mr. Douglas said that reliable catch, biological and economic data are necessary and he felt that this proposal is really a "study" and as such, the Compact states that studies are provided for by states "free".

Mr. Lankford asked what would happen to the study if no PRFC funding was available. Mr. Bundy said it would result in a reduced sampling effort and probably no survey work in Virginia which would reduce the reliability of the conclusions.

Mr. Douglas thanked Mr. Mayer and Mr. Bundy and said the Chairman would appoint a committee to investigate the proposal.

DISBURSEMENTS & CASH ON HAND

Disbursements for the January-March quarter of FY 80 totaled \$27,677.69. It was presented by budget item prorated against the annual budget. For the first three quarters in FY 80 the amount spent (\$77,688.60) represented 67% of the budget excluding repletion work. The following motion was made and seconded:

"That the third quarter disbursements of \$27,677.69 be accepted and approved." The motion was approved.

A statement of cash on hand as of 6/4/80 was presented as follows: Bank of Westmoreland, Checking - \$1,983.53; Statement Savings - \$99,674.30; Maryland National Bank, Savings (Maryland Office) \$12,944.64, C/D \$30,000.00; Maryland Bank & Trust Co. C/D - \$30,000.00. Total \$174,602.47.

BUDGET

Mr. Hickman and Mr. Rubelmann presented a proposed budget for July 1, 1980 thru June 30, 1981 stating that it represents a reasonable increase in salaries and reflects inflationary cost adjustments in the other items. They noted that the staff was still one less than it had been a few years prior indicating an efficient operation. The budget totaled \$354,700.00 with an estimated unexpended cash balance brought forward of \$15,000.00 which will be adjusted as of 7/1/80 when the actual amount is known and this will be reflected in an adjustment in the Development & Repletion Expense, currently estimated at \$208,790.45.

The following motion was made and seconded: "That the budget presented today, when adjusted per above, be adopted and that a copy be attached to and made part of the minutes of this meeting." The motion was approved.

EXPENSE ACCOUNTS

The Commission was advised that Maryland, Virginia and the Federal Government are paying more than the current 17¢ per mile PRFC rate for the use of Private autos on official business. The following motion was made and seconded:

"That effective July 1, 1980, the PRFC set the reimbursement for Private auto use on official PRFC business at 20¢ per mile." The motion was approved.

REPLETION PROGRAM

Mr. Carpenter reported that approximately 40% of this year's repletion funds were used to purchase seed oysters from private planters in the Piankatank River. A total of 30,659 bushels was planted on four oyster bars between April 15th and June 21st. The count ranged from 1,600 to 300 spat/bu. with an average of 926. The cost per bushel was \$2.00 for the seed, \$.75 dredging and \$.60 freight totaling \$3.35/bu. plus count and control men totaling \$104,447.65.

The shell planting portion of the program was started on May 22 and should be completed by the end of June. The only area receiving shell is Jones Shore area #6.

SURPLUS EQUIPMENT

A motion was made, seconded and approved declaring the 1974 Plymouth auto surplus. A Motion was then made, seconded and approved directing the car be disposed of by advertising for and accepting "sealed bids". The details to be arranged by the staff.

CONFISCATED PROPERTY

Mr. Norris said that during the spring gill net season, the Maryland Marine Police had seized approximately 7,500 yds. of gill net which was either in excess of 7" stretched mesh or the nets were set in illegal depths or without identification. On June 4, 1980 we had petitioned the District Court, Montross, Virginia to declare the net confiscated and turned over to the Commission for disposition. The court concurred in our request and ordered the nets confiscated and awarded to the Commission. Mr. Norris recommended that the oversize net be destroyed but all rope, corks, weights, anchors and legal size net be salvaged and sold at public auction.

The following motion was made and seconded:

"That all net webbing in excess of 7" be destroyed". The motion was approved.

A motion was made, seconded and approved to authorize the staff to dispose of all legal nets and dquipment at public auction.

LAW ENFORCEMENT

Robert Brown stated that he is a supporter of hand scraping but that illegal hand scraping at night is an activity which makes it extremely difficult for the catch records to show that hand scraping is beneficial to the bottoms. He stated illegal night hand scraping is "getting ready to start again". He said he believes that the best way to combat the illegal activity is to open more areas to hand scraping hereby reducing the catch at night. He implied

that by taking the supply legally from heavier populated bars, it would eventually reduce illegal taking from same or like areas.

Mr. Louis Harley stated that large numbers of small catfish are being taken by eel potters who are baiting with soy bean cakes. He said the eel potters had caught all the big catfish and big eels and when the market refused to accept the small eels they began fishing for small catfish. The market cannot control small catfish because there are markets for the small fish in ponds in Ohio and other areas.

Chairman Douglas asked that law enforcement increase their efforts in this area. He also directed the staff to begin a study of the catfish/eel fishery and present recommendation at the next meeting. He asked that the industry, law enforcement and scientific advisors be consulted in the formation of any recommendation.

RECESS

At 11:40 a.m. Mr. Douglas said the only other item on the agenda was the Hearing Officer's report and recommendation on delinquent seafood catch reports. He then declared a recess during which the press and a few visitors left. The meeting was reconvened at 11:50 a.m.

CATCH REPORTS

Mr. J. Owen Wise, Hearing Officer, presented his report and recommendations concerning 59 licensees delinquent in filing required seafood catch reports. He explained that each licensee received a first and second notice, notice (third) of Hearing and Notice (fourth) of today's meeting.

Mr. Douglas entered into the record letters received from Newbill Conley, James Gardner, Thomas Yates and Barbara Yates on behalf of Thomas. He then asked if there was anyone present who wished to address the Commission regarding the recommendation of the Hearing Officer.

Mr. James Francis Mack stated he did not work the last two weeks of the oyster season (the only delinquent reports) and just forgot to send in the reports. A motion was made, seconded and approved that no new license be issued until January 1, 1981 and that license be probationary.

Mr. Louis Harley explained the reasons for his failure to file reports. A motion was then made, seconded and approved that all his licenses issued in 1980 be probationary for one year.

James Saunders offered an explanation concerning his confusion over the reporting requirements. A motion was made, seconded and approved that he be placed on probation for one year and if any future reports are not filed or late no new licenses of any type will be issued for one year.

William Kelly explained he was unable to read and write and the reporting requirements are very troublesome to him. A motion was made, seconded and approved that he be placed on probation for one year, can obtain oyster license October 1, 1980, but all licenses will be revoked immediately if any reports are not filed.

Mr. William Jenkins said he was confused by the reporting requirements. A motion was made, seconded and approved to deny him an oyster tonging license until January 1, 1981 and that all licenses be probationary for one year.

There being no others present wishing to speak to the Commission, the Chairman requested each Commissioner to review each of the other 53 recommendations of Hearing Officer. The following motion was made and seconded:

"That the recommendations of the Hearing Officer, except as amended above, be adopted with the understanding that they are subject to review by the Commission if petitioned by the licensee." The motion was approved.

The chairman asked Mr. Norris to advise each of the 59 licensees by certified, "return receipt requested" mail of today's Commission actions.

BUDGET
POTOMAC RIVER FISHERIES COMMISSION
STATEMENT OF PROJECT EXPENDITURES
FISCAL YEAR JULY 1, 1980 THRU JUNE 30, 1981

| <u>PERSONAL SERVICE</u> | <u>1980-1981</u> |
|------------------------------------------|---------------------|
| 101 Compensation of Commissioners | \$ 1,500.00 |
| 102 Compensation of: Executive Secretary | 24,042.00 |
| Legal Officer | 7,415.00 |
| Asst. Executive Secretary | 17,414.00 |
| Secretary | 10,560.00 |
| Bookkeeper | 8,983.00 |
| 109 Part time Help | 500.00 |
| 112 Commissions to Clerks, license sales | 300.00 |
| 199 Other Personal Services (Janitorial) | 500.00 |
| | <u>\$ 71,219.00</u> |

| <u>CONTRACTURAL SERVICES:</u> | |
|--------------------------------------|---------------------|
| 201 Advertising | \$ 4,000.00 |
| 204 Postage | 2,200.00 |
| 205 Telephone | 2,500.00 |
| 208 Electric Current | 650.00 |
| 212 Lease of Equipment | 180.00 |
| 214 Membership dues & Subscriptions | 450.00 |
| 216 Printing Regulations | 1,000.00 |
| 220 Travel Expense | 6,000.00 |
| 221 Water Service | 155.00 |
| 224 Photographic Services - Charts | 400.00 |
| 270 Repairs to equipment | 600.00 |
| 280 Interest Expense | 300.00 |
| 299 Other Contractual Services | 15,000.00 |
| 301 Automotive Expense | 3,200.00 |
| 309 Fuel for Heat | 800.00 |
| 313 Office Supplies | 1,000.00 |
| 330 Household Furnishings & Supplies | 150.00 |
| 332 Licenses, tags, report books | 4,000.00 |
| | <u>\$ 42,585.00</u> |

| <u>CURRENT CHARGES & OBLIGATIONS:</u> | |
|---------------------------------------------------------------------------------|--------------------|
| 240 Insurance - surety bonds, fire EC, auto liability, workmen's comp., etc. | <u>\$ 2,300.00</u> |

| <u>CAPITAL OUTLAYS:</u> | |
|------------------------------|--------------------|
| 801 Office & other equipment | 250.00 |
| 802 Furniture and fixtures | 750.00 |
| 805 Improvements to Building | 500.00 |
| | <u>\$ 1,500.00</u> |

| <u>DEVELOPMENT & REPLETION EXPENSES:</u> | |
|----------------------------------------------|---------------------|
| 331 & 333 Seed oysters and/or shells | <u>\$204,316.35</u> |

| <u>PENSION AND OTHER CONTRIBUTIONS:</u> | |
|-----------------------------------------|--------------------|
| 510 Retirement | \$ 3,906.85 |
| 511 Group Insurance | 204.48 |
| 513 Employer's O.A.S.I. contributions | 4,194.22 |
| | <u>\$ 8,305.55</u> |

| <u>UNEXPENDED CASH BALANCE:</u> | |
|---------------------------------|---------------------|
| | <u>\$ 20,000.00</u> |

| | |
|---------------|---------------------|
| TOTAL BUDGET: | <u>\$350,225.90</u> |
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BUDGET

POTOMAC RIVER FISHERIES COMMISSION

STATEMENT OF PROJECT REVENUES
FISCAL YEAR JULY 1, 1980 THRU JUNE 30, 1981

| | <u>1980-1981</u> <u>(as of 7/1/80)</u> |
|-------------------------------------------------------------|-------------------------------------------|
| UNEXPENDED CASH BALANCE BROUGHT FORWARD: | \$10,525.90 |
| SALE OF LICENSES: | |
| Fish | 35,000.00 |
| Oyster | 45,000.00 |
| Crab | 20,000.00 |
| Clam | 200.00 |
| OYSTER BUSHEL INSPECTION TAX: | 30,000.00 |
| APPROPRIATIONS BY STATE: | |
| Maryland | \$100,000.00 |
| Virginia | 100,000.00 |
| INTEREST ON SAVINGS: (C/D's) | 8,000.00 |
| MISCELLANEOUS: Confiscated Property & Sale of tags, etc. | 1,500.00 |
| | <hr/> |
| TOTAL | \$350,225.90 |

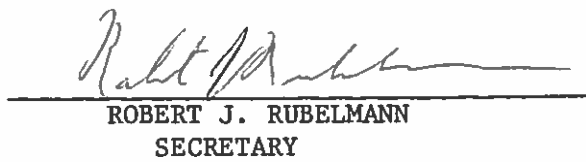
FUTURE MEETINGS

The next regular meeting was set for September 5, 1980 at 9:30 a.m.
The location of the meeting will be announced.

A motion to adjourn was made, seconded and approved at 1:00 p.m.



JAMES E. DOUGLAS, JR.
CHAIRMAN



ROBERT J. RUBELMANN
SECRETARY