

MINUTES OF THE MEETING OF THE
POTOMAC RIVER FISHERIES COMMISSION
COLONIAL BEACH, VIRGINIA
FEBRUARY 6, 1981

PRESENT: COMMISSIONERS - Chairman James E. Douglas, Jr., Milton T. Hickman, William P. Hunt, John T. Parran, Jr., William P. Jensen, Francis J. Russell

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

VISITORS - Paul C. Wentzell & Henry C. Batchelor, Maryland Natural Resources Police, Dexter S. Haven & Frank J. Wojcik, VIMS, Elgin A. Dunnington, Univ. of Md. CBL, Oren Mears & Donald Z. O'Bier, Virginia MRC, M. W. Haynie, John A. Jenkins, Carlos Rotenizer, Robert M. Brent, Jr., Tucker Brown, James Lathroum, Robert T. Brown, Allen Dent, Louis Harley, William A. Cumberland, Edward R. Dent, Jessie E. Dent, Jerry Decatur, Tommy Dent, Harry T. Stine, James W. Dutton, Gene Hundley, William F. Turner, Sr., Kenneth L. Cumberland, Elmer Waite, Garnett Reamy, Joseph A. Neale, Floyd Bramble, Alan T. Hundley, Paul Floyd, George L. McKenney, R. W. Gideon, Paul Smith, John Morris, Leroy Russell, Francis C. Faunce, Daniel Burch, Joe Scrivener, James H. Knott, Paul Zanko, Daniel Kelly, Warren McKenney, James Saunders, Walter L. Hundley and Douglas F. Jenkins, Sr.

PRESS - Keith Epps, Free Lance-Star, Todd J. Shields, Westmoreland News, Dick Myers, Maryland Independent, Jim Roundtree, WKIK, Isabel Gough, Richmond News Leader

The meeting was called to order at 9:30 a.m. by Mr. Douglas. He recognized and introduced the two new Commissioners from Maryland, Mr. Francis J. Russell of St. Mary's County and Mr. William P. Jensen of the Maryland Department of Natural Resources. He announced that Commissioner John T. Parran, Jr. had been reappointed. He welcomed each of the three Commissioners.

Mr. Douglas asked for consideration of the Minutes of the October 31, 1980 meeting which had been previously circulated to each Commissioner. The following motion was made and seconded:

"That the Minutes of the October 31, 1980 meeting be approved as written." The motion was approved.

OPEN PUBLIC HEARING

REGULATION CHANGES

Mr. Douglas said the public hearing on regulation changes would now proceed. He noted that copies of the proposed changes which had been advertised were available at the front of the room. He asked Mr. Norris to explain each proposed section or sub-section which was done as follows:

Regulation I, Section 2 (n):

Mr. Norris explained that the purpose of this change is to clarify the time and conditions for obtaining new license(s) and renewing license(s) of previously assigned fixed fishing device(s) to prevent forfeiture of the location(s) and to arrange in orderly paragraphs with descriptive headings the eleven components of this sub-section.

Douglas Jenkins, Robert T. Brown and James W. Dutton all objected to paragraph 6 because it gave anyone the right to oppose the renewal of fishing licenses. Mr. Douglas explained paragraph 6 puts the burden of proof on the opponent and protects the fishermen by requiring a non-refundable fee. Allen

Dent suggested the fee should be \$1,000 not \$100. Mr. Jenkins objected to par. 9 and Allen Hundley objected to 5 (b).

Regulation II, Section 2 (b):

Mr. Norris explained this change includes as part of the regulation that which has been for years a standing order of the Commission concerning the time for taking oysters.

There were no comments.

Regulation II, Section 2 (f):

Mr. Norris explained this change includes as part of the regulation that which has been a standing order of the Commission concerning the time for clearing the cull boards.

There were no comments.

Regulation III, Section 11:

Mr. Norris explained that this change lowers the minimum size to 6" for taking catfish known as "bullhead" which usually do not attain the current minimum required length of eight (8") inches.

James W. Dutton said since this change would allow fishermen to keep a smaller fish than currently allowable in Maryland, he was opposed until the question of possession in Maryland could be clarified. In response to a question from the Chairman, both Mr. Jensen and Mr. Wentzell felt an existing Maryland law allowed possession in Maryland of fish caught legally in the Potomac by Maryland fishermen. Mr. Jensen was asked to obtain an opinion from the Maryland Attorney General regarding this question.

Mr. Douglas asked for other comments and there being none, he declared the Public Hearing portion of the proceedings closed at 10:05 a.m.

CLOSE PUBLIC HEARING

REGULATION CHANGES

A motion was made and seconded as follows:

"That Regulation III, Section 11 be approved as advertised pending the decision of the Attorney General that the fish caught legally in the Potomac would not be considered illegal if landed in Maryland." The motion was approved.

A motion was made and seconded as follows:

"That Regulation II, Section 2 (f) be approved as advertised." The motion was approved.

A motion was made and seconded as follows:

"That Regulation II, Section 2 (b) be approved as advertised." The motion was approved.

A motion was made and seconded as follows:

"That Regulation I, Section 2 (n) be approved as advertised." The motion was approved.

A motion was made, seconded and approved making the above regulation changes effective March 15, 1981.

PERMITS - SEWAGE TREATMENT

Mr. Carpenter said that as requested at the last meeting, he instituted an investigation of what recourse the watermen might have in the event of damages resulting from the operation of the Fairview Beach Sewage Treatment Plant or any other "permitted" activity. Letters were written to the Maryland Water Resources Administration and the Virginia Health Department asking: 1) what recourse the watermen might have in event of a closure of fishing areas, 2) how the plant will be operated, and 3) what safeguards will be taken to prevent damages. Virginia's response said the plant was designated as Class I reliability, the facility has been issued a NPDES permit, and that penalties may be levied for violations of the permit. No response has been received from Maryland as yet, and a second letter has been sent.

REGULATION CHANGES - SHAD

Mr. Dutton asked about the status of regulations on taking shad in the Potomac. Mr. Jensen explained that Maryland Department of Natural Resources, by regulation, prohibits catching American and hickory shad for 1981 except for two (2) per day for personal household use. Mr. Douglas said such closure of the Potomac was tabled earlier by this Commission and since there is no request by a Commissioner to reconsider the question there would be no action taken at today's meeting.

DISBURSEMENTS AND CASH ON HAND

Disbursements for the October-December quarter of FY 81 were \$28,745.82. The following motion was made and seconded:

"That the second quarter statement of disbursements of \$28,745.82 be accepted and approved." The motion was approved.

A statement of cash on hand as of 2/4/81 was presented as follows:
Bank of Westmoreland - Checking \$15,469.17; Statement Savings \$21,088.45;
C/D \$115,000.00; Maryland National Bank - Savings \$4,661.26; C/D \$100,000.00
for a grand total in banks of \$256,218.88.

OYSTER PRODUCTION REPORT

An oyster production report for the first four months (October-January) of the season was presented. The harvest totals of both tongers and hand scrapers are about one half the catch for the same period last season. Decreased harvest effort due to possibly reduced oyster population, heavy spat set on mature oysters and earlier onset of ice conditions are believed contributing factors to lower catches. With both the catch and license sales down, the revenues are well below last season's. The inspection tax of \$11,539.54 this season compares with \$24,014.53 for last season.

REPLETION PROGRAM:

Mr. Norris reported a proposed oyster repletion program for 1981. He explained that this program was developed and recommended by the advisory committee. Two meetings were held--first scientists, law enforcement and state repletion officers met with the staff and formulated a planting program; then 12 watermen, 6 from each state were invited to review the plan. Each of the 11 watermen (one from Virginia could not attend) who came then listed in order of preference their suggestions for areas, etc. The program recommended here today is the concensus of those meetings and is basically to continue shell planting on Jones Shore and transplant seed from Jones Shore to 18 mid and upriver bars.

Mr. Dunnington and Mr. Haven endorsed the plan as presented. Mr. Jenkins objected saying Great Neck should be planted with seed. Mr. Brown suggested the 30 acres planting planned for Posey's Bluff should be reduced to 15 acres so that no seed would be planted in water deeper than 13 feet. He also suggested that when the areas were selected and buoyed for planting that two (2) local watermen should assist the Commission. Mr. Stine stated he was in complete agreement with the plan as presented. Mr. Dutton said more seed upriver meant more fish in that area and therefore he supported the proposal.

After considerable discussion on variations in the proposal, Mr. Hickman questioned the value of an advisory committee if radical changes were made at the last minute. He then made a motion to adopt the plan as presented, the motion was seconded. A motion was made to amend Mr. Hickman's motion by inserting a 20 acre planting on Great Neck behind Green Hill, thereby making Great Neck 5th on the list of priority. The motion was seconded and approved. Mr. Hickman's amended motion was then approved.

Mr. Douglas requested that the staff have the assistance of more than one local waterman when marking each of the areas to be planted.

ELECTION OF OFFICERS

Mr. Hunt, reporting for the Nominating Committee, nominated Mr. Parran as Chairman, Mr. Hickman as Vice Chairman and Mr. Russell as Secretary. Mr. Hickman asked that his name not be placed in nomination, whereupon Mr. Douglas was nominated as Vice Chairman. Mr. Douglas asked if there were any other nominations and none being offered, a motion was made, seconded and passed electing Mr. Parran Chairman; Mr. Douglas, Vice Chairman and Mr. Russell, Secretary. At this point the Chair was turned over to Mr. Parran who continued the meeting.

CLAMS

Mr. Tucker Brown, representing the St. Mary's clammers, asked that the areas from Smith Point to Coan River, with the exception of any oyster bars, be opened for soft shell clamming; and that if clams are found and the area opened, that the oyster bars be identified by staking to eliminate confusion.

The Chairman asked Mr. Norris to collaborate in such a survey in sufficient detail and extent to satisfy those concerned as to the present conditions. He asked the scientific advisors to assist in this task and suggested using as many boats as they felt were needed or that could be supplied by the clammers.

There was some discussion concerning the possibility of opening this area via telephone poll of the Commissioners after the survey. Mr. Wise suggested that if the survey determined opening was advisable, the Commission should consider calling a special meeting to consider the opening. Mr. Farran agreed.

Mr. Jenkins suggested there could be conflicts if clamming is allowed during crab pot season.

REGULATION CHANGES - SUGGESTED

Mr. Jenkins requested that oyster cull law be changed--eliminate "toad eggs" from cull, also that small spat not be considered.

He also suggested a grace period for replacing lost tags and that anchor gill nets be allowed anywhere stake nets can be set.

There were no comments and no action taken on the above.

U.S.C.G.

Mr. Parran said he had received several comments regarding the new U.S.C.G. regulation on visual distress signals. He asked the staff to investigate and report if this is a matter of concern to the Commission.

HATCHERIES

Mr. Louis Harley suggested the Commission should consider establishing a fish hatchery for yellow perch, white perch, shad and bass. He believes this would be beneficial to all and reminded everyone that shad hatcheries used to be operated, successfully he felt, in the upper Potomac.

CATCH REPORTS

Mr. Wise presented a list of 21 licensees who had been invited to a hearing today for failure to file the required seafood catch reports. Mr. Parran read the list and asked that each man step forward as his name was called.

Mr. James H. Knott explained he stopped crabbing in September and just forgot to notify the Commission. A motion was made, seconded and approved suspending his crab license for one month from the date he surrenders it.

Mr. Carlos Lee Rotenizer said he had problems with receiving his mail and therefore was unaware of being delinquent in filing the reports. A motion was made, seconded and approved suspending all of his licenses for one month from today.

Mr. Joseph M. Scrivener said he had just started an oyster shucking house and in all the commotion he had forgotten to send in the reports. A motion was made, seconded and approved suspending only his crab license for one month from the time he applied for it. NOTE: (See minutes of June 5, 1981, page 425, first paragraph for action taken on remaining 18 licensees.)


Mr. Paul Floyd (called to 10/31/80 meeting) explained his failure to file resulted from troubles associated with his wife's illness and hospitalization last year. A motion was made, seconded and approved that no crab or fish license be issued to him until June 1, 1981.


Mr. Dutton questioned how an individual whose license renewal privilege is in question because of failure to file the required reports could be allowed to surrender the licenses and thereby allowing a friend or relative to pick up the stands and in effect circumvent the system. Mr. Parran asked Mr. Wise to address the problem of licenses being assigned to friends/relatives during the period of suspension or probation and what alternatives the Commission has under the present system to deal with this situation.

FUTURE MEETINGS

The next regular meeting was set for June 5, 1981 at 9:30 a.m. at the Commission Office in Colonial Beach.

A motion to adjourn was made, seconded and approved at 12:35 p.m.


JOHN T. PARRAN, JR.
CHAIRMAN


FRANCIS J. RUSSELL
SECRETARY